C O N F I D E N T I A L T R A N S C R I P T

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF KENTUCKY

LOUISVILLE DIVISION

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BROWN and WILLIAMSON TOBACCO CORPORATION,

Plaintiff,

- against - No. C-89-0470-L-B

PHILIP MORRIS INCORPORATED,

Defendant.

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DEPOSITION of ANDREW McMURTRIE, taken before Donna A. Metz, a Notary Public of the State of New York, held at the offices of Fish & Neave, Esqs., 875 Third Avenue, New York, New York 10022, on the 29th day of May, 1991, at 10:10 a.m., pursuant to agreement.

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that the within examination may be subscribed and sworn to before any notary public with the same force and effect as though subscribed and sworn to before the court.

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A N D R E W M c M U R T R I E , having been first duly sworn by Donna A. Metz, notary public, was examined and testified as follows:

EXAMINATION

BY MR. HINTZ:

Q Would you state your name for the record, please.

A Andrew McMurtrie.

Q What is your address of residence, please?

A [DELETED]

Q Could you tell me your educational background since graduating from high school,

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please.

A I got a bachelor of science degree from Center College, 1972.

I got a master's degree from the University of Tennessee, 1975.

Q What was your bachelor's degree in?

A Chemistry.

Q And your master's, was that also in chemistry?

A Correct.

Q After you received your master's, did you take a job?

A Yes.

Q Who was that with?

A Brown and Williamson.

Q That was immediately after obtaining your master's in 1975?

A No. I was working -- I had a job while I was getting my master's.

Q When did you first begin working for Brown and Williamson?

A 1978.

Q 1978?

A Right.

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Q Who did you work for prior to that?

A Galbraith Laboratories.

Q Did that work have anything to do with the tobacco industry?

A No.

Q What was your first position at Brown and Williamson in 1978?

A Analytical chemist.

Q Who did you report to in that position?

A Dr. Beale Canon.

Q What was your next position at Brown and Williamson?

A Development chemist.

Q When did you undertake that position?

A Approximately 1980.

Q When you first became a development chemist, who did you report to?

A Tilford Riehl.

Q What were your general duties and responsibilities initially as a development chemist?

A Initially, it was to learn the fundamentals of cigarette product development.

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Q Did those duties change over time as you were a development chemist?

A No. Those are the responsibilities of a development chemist.

Q What was your next position at Brown and Williamson?

A Senior development chemist.

Q When did you attain that position?

A Approximately, 1982.

Q Who did you report to in that position?

A I continued to report to Tilford Riehl.

Q Were your duties different as a senior development chemist than they had been when you were a development chemist?

A The responsibilities were similar. Senior development chemist requires less supervision, more freedom to act independently.

Q As a senior development chemist, did you take on the responsibility of supervising others?

A I don't recall one way or the other.

Q What was your next position at Brown

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and Williamson?

A Development scientist.

Q When did you attain that position?

A I don't recall that for sure.

Q Who did you report to when you became a development scientist?

A I believe I continued to report to Tilford Riehl.

Q What were your general duties and responsibilities as a development scientist?

A Continued responsibility for the development of cigarette products, simply requiring a higher level of expertise and independence.

Q Did you have anyone reporting to you when you were a development scientist?

A Yes.

Q Who reported to you at that time?

A Larry Mosser, Dorothy Frank, I believe Lynn Walker.

Q Did you attain another position after that of development scientist?

A Yes.

Q What was that position?

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A Group development director.

Q When did you attain that position?

A I don't recall for certain.

Q Do you recall about how long you were a development scientist?

A In general, all the positions I have talked about were one and a half to two years.

Q Who did you report to as group development director?

A Either Tilford Riehl or Lance Reynolds.

Q As group development director, were people reporting to you?

A Yes.

Q Who reported to you?

A I can't give you an inclusive list. The names I have mentioned already, Rick Gonterman, Roy Templeton, Dan Cantrell, others.

Q Kelley St. Charles?

A No.

Q How about Ann Kerr?

A For a portion of the time as group development director, yes.

Q You listed six people plus Ann Kerr

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for a portion of the time.

About how many other people do you believe were reporting to you at about that time? I am just trying to get a ballpark number.

A Are you asking for direct reports?

Q Yes.

A I am sorry. Not all of those were direct reports. Some were within my group. The total group could have been somewhere between 10 to 18 people.

Q Did this group have a name that would cover all these 10 or 18 people?

A Not a single name, no.

Q Was the work that this group did all related to product development?

A No.

Q No?

A No.

Q What work was this group involved with?

A Product development, sensory testing, maintenance of manufacturing specification system. That's it.

Q Were you promoted subsequent to your

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position of group development director?

A Yes.

Q What was your next position?

A Director of product development.

Q When did that promotion take place?

A In June or July 1989.

Q Who did you report to when you attained the position of director of product development?

A Dr. Jeff Wigand.

Q What were your duties and responsibilities as director of product development?

A Responsible for product development for all Brown and Williamson domestic cigarette products.

Q Was there a director responsible for international Brown and Williamson cigarette products?

A Yes.

Q Who was that?

A Herb Woertz.

Q Did Mr. Woertz also report to Dr. Wigand?

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A Yes.

Q As director of product development, about how many people reported to you?

A Approximately 30. Excuse me. Not direct reports. Total within my group.

Q Was this group also responsible for the areas that you identified earlier; namely, product development, sensory testing and maintenance of manufacturing specification system?

A Yes.

Q Was there anything else this group was responsible for?

A No.

Q Were you promoted subsequent to the promotion that you attained the title of director of product development?

A No.

Q So your current position is director of product development; is that right?

A No.

Q What is your current position?

A Manager of superiority projects.

Q When did you attain that title?

A April 1, 1991.

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Q You do not consider that a promotion from where you were?

A No.

Q Who do you report to as manager of superiority products?

A Tilford Riehl.

Q What are your responsibilities in that position?

MR. HUGHES: Mr. Hintz, this is well after the agreed upon cutoff date.

I have allowed some latitude here in getting some background. I think it's enough. You have had plenty.

This is an area where you need not answer any further questions.

MR. HINTZ: I think we are entitled to know his work. You have allowed me to find out his title and who he reports to. I hardly call that a lot of latitude.

MR. HUGHES: If you consider all the questions you asked with respect to his position as director of product development, which he assumed as of June-July 1989, that was well after the cutoff date. I think you have had enough.

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Q Mr. McMurtrie, in your position as manager of superiority projects, do you have any responsibility for cigarettes having circumference of less than 21 millimeters?

A No.

Q Does your work involve, and by "your work" I mean you or people that report to you, does that work involve cigarettes having a circumference of less than 21 millimeters?

A No.

Q From the time when you were a director of product development to the time that you became the manager of superiority projects, did you or the people that reported to you work with cigarettes having a circumference of less than 21 millimeters?

A Could you define what you mean by "work with"?

Q Perform any tests, create any prototypes or models, conduct any evaluations. I am being far from all-inclusive, but those are the types of things.

A Yes.

Q Are you familiar with a Brown and

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Williamson project code name Visa?

A Yes.

Q What was Project Visa?

A Visa was the code name for ultra slim cigarettes.

Q What do you mean by the term "ultra slim"?

A "Ultra slim" to me has no definite range. The specific project involves cigarettes approximately 17 millimeters in circumference.

Q When you say that ultra slim to you has no definite range, do you mean no definite range of circumference?

A Correct.

Q Under your terminology, then, would a 21 millimeter cigarette be an ultra slim cigarette?

MR. HUGHES: I object. I don't think you have established a foundation for him to answer it based on this record.

But if you previously considered that, you can give your understanding. But don't sit here and speculate on an opinion you have not considered in the relevant time frame.

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A I never considered it in the past.

Q Could you consider it for me now, please?

MR. HUGHES: No.

MR. HINTZ: The witness is usually the one that answers the questions, Mr. Hughes.

MR. HUGHES: I am advising the witness not to answer the question.

MR. HINTZ: Then advise him. Don't answer my questions for him.

MR. HUGHES: I will advise the witness as I see fit.

MR. HINTZ: Please advise the witness. Do not answer my questions, though.

MR. HUGHES: I am advising the witness, and I so did.

Q You testified that an ultra slim cigarette has no definite range and we have established we are talking about a range of circumference; is that correct?

A Correct.

Q Am I correct that a 17-millimeter circumference product is an ultra slim cigarette?

A Since I don't have a definite idea of

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what an ultra slim range is, I can't say whether a 17 would or would not be.

Q So you do not know what ultra slim means; is that correct?

A That's correct.

Q Have you ever heard the term "ultra thin" in your work at Brown and Williamson?

A I don't recall one way or the other.

Q What was your role or involvement with Project Visa?

A I was group development director during a portion of the Visa development.

Q When did Project Visa begin?

A I don't recall one way or the other.

Q When did your involvement with the project begin?

A I can't say for certain.

Q Mr. McMurtrie, did you ever hold the position senior project manager product development at Brown and Williamson?

A Yes, I believe I did.

Q You are laughing at that.

A I am laughing because I honestly do not pay tremendous attention to my titles.

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Q Fair enough.

Do you recall, though, that you in fact did have that title at one time, senior project manager?

A Yes, I do recall it.

Q Do you recall about the time frame when you had that position?

A No, I don't.

Q Would it have been about 1985 to 1987?

Does that help refresh your recollection?

A I don't recall one way or the other.

Q Did you report to Lance Reynolds when you were senior project manager?

A I don't recall one way or the other.

Q Let me see if we can try to place some time periods here to give you some context.

You testified you became senior development chemist in 1982, and most of your positions were one and a half to two years. Is that correct?

A That's correct.

Q The next position you testified to is

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development scientist, which would place us in about 1984. Is that roughly correct?

A Roughly correct.

Q Your next position was group development director, which, again, assuming the one and a half to two years, would be about 1986?

A That's what I stated before, forgetting about the senior project manager, which I believe came after development scientist.

Q You believe that you became a senior project manager in about 1986?

A I don't recall for certain.

Q Let us go back to Project Visa. Whenever your involvement began, it began when you became group development director; is that correct?

A That's what I believe, but having been reminded of an additional position that I had forgotten about, I am no longer certain that that is the title I held at the time I became involved with Visa.

Q Am I correct, then, you may have become involved with Visa when you were a senior project manager?

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MR. HUGHES: Don't speculate.

A I don't know one way or the other.

Q But you just testified that you were not certain that your first involvement was when you were the group development director; is that correct?

A That's correct.

Q But you do know you were involved with Visa as a group development director; is that correct?

A I am certain that I was involved with Visa as a group development director. I am not certain what my position was at the time I first became involved with Visa.

Q But whatever that position was, it would have been prior to the time when you were a group development director; is that correct?

A Not necessarily, no.

Q If the first time wasn't when you were group development director, and you were involved as group development director, it must have been before then; right?

MR. HUGHES: I object. I think you are mischaracterizing it.

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I think he said he is not sure whether he was group development director when he first became involved with Visa, so it does not necessarily preclude the possibility that he was in that position when he first became involved in Project Visa. I think that is the problem with the question.

Q So either the first time was when you were group development director or some time prior to when you were group development director. Is that correct?

A That's correct.

Q Let me see if we can fix that time frame. I will ask the reporter to mark as Defendant's Deposition Exhibit 383 a two-page document, produced by Brown and Williamson, bearing production numbers BWM 2-074 to 075, entitled "Visa Task Force Meeting 11/1/85."

(The document above referred to was marked as Defendant's Exhibit 383 for identification, this date.)

Q Mr. McMurtrie, can you identify the handwriting on Exhibit 383?

A No, I can't.

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Q Would you turn to the second page, please? There is an item 8. Do you see that?

A Yes, I do.

Q It reads, "Drew McMurtrie will pick up all new prod work."

Do you see that?

A Yes, I do.

Q That is you being referred to there, Drew McMurtrie; correct?

A Yes.

Q Do you recall in or about November 1985 you picked up new product work as one of your job responsibilities?

A I don't recall one way or the other.

Q This does not help refresh your recollection?

A No, it doesn't.

Q The two names under that item 8, "Mosser, NM," for nonmenthol, correct --

A Correct.

Q "Templeton, M," for menthol?

A Correct.

Q Both of those gentlemen at one time reported to you; is that correct?

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A That's correct.

Q I believe that you testified that they reported to you when you were the group development director?

A That's correct.

Q Had they reported to you at any time prior to your becoming group development director?

A Yes, they had.

Q When was that?

A I don't recall for certain.

Q Was it when you were senior project manager?

A I don't recall one way or the other.

Q If you turn back to the first page of Defendant's Exhibit 383, do you see at the top "Visa Task Force Meeting"? Are you familiar with a Visa Task Force?

A Yes.

Q What was the Visa Task Force in late 1985?

A In general, the task force were multi-discipline meetings of organized projects.

Q Were you a member of the Visa Task Force at some point in time in your career at

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Brown and Williamson?

A Membership to the task force were never formalized.

Q But am I correct you received copies of minutes of task force meetings?

A That's correct.

Q Were you invited to attend or made aware of when those meetings were to occur?

A Yes, I was.

Q Did you ever attend Visa Task Force meetings?

A Yes, I did.

Q I would like to show you what has been previously marked as Defendant's Exhibit 109, which is a copy of Visa Task Force minutes November 1, 1985.

Do you see that, in the re line?

A Yes.

Q You will see in the distribution list, right column, the second name is your name; correct?

A Correct.

Q Does seeing these minutes help refresh your recollection of when you first became

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involved with Project Visa?

A I don't recall seeing these minutes specifically.

Q But my question was, seeing these minutes from a meeting, November 1, 1985, and seeing that you received a copy of these minutes, does that help refresh your recollection of when you became involved with Project Visa?

A Being copied on the minutes indicates that I had responsibilities for Project Visa at the time of this, the issuance of the document.

Q Do you recall what those responsibilities were in November 1985?

A I don't recall one way or another.

Q Do you believe that in late 1985 you had responsibilities for domestic product development for Brown and Williamson?

MR. HUGHES: May I hear the question again, please?

(Question read.)

A Yes. I have had responsibilities for domestic product development at Brown and Williamson since I got into the product development department.

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Q That is what I thought, but I just wanted to tie it in directly to the 1985 time frame.

Did your work ever involve international product development throughout your career at Brown and Williamson?

MR. HUGHES: Up through the end of May 1989.

A I have had no formal responsibilities.

Q In the work that you have been involved with, or your group has been involved with, are you familiar with DuPont testing?

A Yes.

Q What exactly is DuPont testing?

A DuPont testing refers to a form of small-scale consumer panel testing.

Q Does DuPont refer to a company, a facility?

THE WITNESS: Do you consider that information proprietary?

MR. HUGHES: May I confer with him, please?

MR. HINTZ: Sure.

(Witness confers with counsel.)

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A Dupont does refer to a facility.

Q Is that facility within Brown and Williamson or is it a separate entity?

A That facility is within Brown and Williamson.

Q Are the consumers, that are used in the consumer panels for DuPont testing, Brown and Williamson employees?

A No, they are not.

Q What has been your involvement with DuPont testing?

MR. HUGHES: With respect to what? It is vague and ambiguous.

Q Let us stick with Project Visa.

A I still have difficulty with what the word "involvement" means.

Q Let me break it down.

Were you responsible or involved with setting up DuPont testing?

A Could you define "setting up"?

Q Choosing the samples that were to be tested, selecting the types of consumers that were to be brought in, selecting whatever parameters they were to be testing.

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A Yes, I was involved.

Q I want to make sure you are answering with regard to Project Visa.

A That's correct.

Q Did you have any involvement with analysis of the results from DuPont testing?

A Yes, I did.

Q I would like to show you some results of DuPont testing that we have received from Brown and Williamson.

MR. HINTZ: I will ask the reporter to mark these results as Defendant's Exhibit 384. It is a document bearing production numbers BWH 6-05 through 13. It is dated November 25, 1985, from Ms. A. L. Kirby to Mr. L. K. Templeton.

(The document above referred to was marked as Defendant's Exhibit 384 for identification, this date.)

Q Mr. McMurtrie, you are listed as a copy recipient of Defendant's Exhibit 384; correct?

A That's correct.

Q The subject of this document is "DuPont Results of Visa Samples (nonmenthol and

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menthol)."

Do you see that?

A Yes, I do.

Q Am I correct that you were involved with some of the DuPont testing of Visa samples?

A Using the definition of involvement that you used before, yes, that is correct.

Q This document is in November 1985, which is the same time frame as the two documents we previously looked at, Exhibits 383 and 109.

Does that help refresh your recollection of when you first became involved with Project Visa?

A Not necessarily.

Q But, as you testified earlier, because you were copied on the minutes of Exhibit 109 and you are copied on this document, you believe you had some responsibility in late 1985 for Project Visa?

A Yes.

Q If you look in the first paragraph, the last sentence reads, "The first included only Visa samples, while the second included the same Visa samples as well as competitive slims

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products."

What is being referred to there as the "competitive slims products"?

MR. HUGHES: I object to the extent you are seeking speculation as to the state of mind of the author of this document. It is clear he is not the author of the document. If you have an understanding, you may testify.

A My understanding does not go beyond the listing of the competitive products shown on the page.

Q Those products are listed under the headings "Nonmenthol" and "Menthol"?

A That's correct.

Q Those products are, under "Nonmenthol," Virginia Slims Lights 100, Virginia Slims 100; and under "Menthol," Salem Slims Lights 100, Virginia Slims Lights 100, and Virginia Slims 100; is that correct?

A That's correct.

Q Are there any other competitive slims products listed in those two columns?

A No.

Q So these other entries are for Visa

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samples; is that correct?

A That's correct.

Q Is it also correct that in November 1985, Brown and Williamson viewed these other cigarettes, these competitive products as the competition for the Visa cigarettes?

MR. HUGHES: I object. There is no foundation for this witness to testify as to what Brown and Williamson considered or did not consider.

A When we talk about a competitive product, it simply means it is made by the competitor. It is not made by Brown and Williamson.

Q At Brown and Williamson, you do not talk about competitor slims products, you talk about competitive slims products; is that correct?

MR. HUGHES: I object to the argumentative nature of the question.

Q Can you answer my question?

A We could refer to it either way.

Q In November 1985, was there a target market for the Visa product?

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A I don't recall one way or the other.

Q Based on this document, is it fair to say the target market were these competitive slims products?

MR. HUGHES: I object. There is no foundation for that question.

A I can't say one way or the other.

Q But in November 1985, Brown and Williamson was conducting DuPont tests of Visa samples against these competitive slims products; is that correct?

A With those products in the test, yes.

Q These products that are identified in Exhibit 384?

A That's correct?

A Did Brown & Williamson ever test against a conventional size cigarette such as Marlboro or Camel for Project Visa in DuPont testing?

A I don't recall one way or the other.

Q From your involvement with DuPont testing, you do not recall that was ever done?

A I don't recall one way or the other.

Q Would you turn to the second page of

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Exhibit 384, please. This is titled "Breakdown of Smokers from Acceptability Testing."

Do you have an understanding of what "acceptability testing" means?

A Yes, I do.

Q What is your understanding?

A Acceptability is a term that is used for rating panelists' overall acceptability of the product.

Q What do you mean by overall acceptability?

A It doesn't specify particular attributes of the product.

Q I am still a little confused. What doesn't specify particular attributes?

A Acceptability testing, the panelists are asked to rate a product on overall acceptability.

Q Are those ratings summarized on the following page, BWH 6-07?

A That's correct.

Q For some evaluation here, it may not be for every sample and for every product listed on the first page, this is a type of acceptability

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study results?

A This is an example of an acceptability study result.

Q Is it fair to say that this is a relative study, that the scale goes from like less to like more.

A I can't say that for certain.

MR. HUGHES: Is this a convenient spot to take a short break?

MR. HINTZ: Sure.

(Recess.)

Q Mr. McMurtrie, are you familiar with a new products standing committee that existed at Brown and Williamson in 1986?

A I am familiar with a new products standing committees in general.

Q Were you ever a member on a new products standing committee?

A Yes.

Q Let me show you what has previously been marked as Defendant's Exhibit 317. The first page is from S. D. Zolper, the subject is "New Products Standing Committee Minutes."

The first sentence states, "A draft of

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the new products standing committee minutes is attached."

If you will turn to the second page you will see those minutes and behind the caption present in the third line you will see your name.

Do you see that?

A Yes.

Q Is it your understanding you were a member of a new products standing committee in January 1986?

A Yes.

Q What was the function of that committee?

A The committee reviews the status of product development projects.

Q All of Brown and Williamson's product development projects?

A No.

Q Which of the many product development projects does it review?

A In general, it reviews the major product development projects.

Q What criteria differentiates a major

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development project from a minor development project?

MR. HUGHES: If you know.

A I can't say one way or the other.

Q Is it major in the sense of interest by the company, or potential market share, or novelty, or uniqueness, or volume, anything?

A I can't think of a definition which would cover all the possibilities.

Q So there are many reasons why a project may be major?

A Correct.

Q The minutes in Exhibit 317 are broken out into different headings. The first one is "Visa." It talks about, in the first sentence, "the fifth round of DuPont testing."

Do you recall how many rounds of DuPont testing took place on Project Visa?

A I can't say for certain one way or the other.

Q Were you involved with all the rounds of DuPont testing for Project Visa?

A No.

Q Were you involved with earlier rounds

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as opposed to later rounds?

A I was involved with later rounds.

Q If you will look at the third line, it is also the third sentence, I believe. It reads, "Product manufacture began yesterday (1/16)."

Do you see that?

A Yes, I do.

Q What manufacture was being undertaken there? Is that for the fifth round of DuPont testing?

A I don't recall one way or the other.

Q Where was that manufacturing being done? Was it in the development center in Louisville?

A I have no way of knowing.

Q In the third paragraph under Project Visa, there is a reference to a meeting with Celanese.

Do you see that?

A Yes, I do.

Q Were you involved with any meetings with Celanese?

A I don't recall one way or the other.

Q Those meetings would have been related

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to filters, is that correct, or filter tow?

A I can't say that for a fact.

Q The next heading in these minutes is for "Beta." What was Project Beta?

A Beta was a code name for a different new product.

Q Different from Visa?

A That's correct.

Q How was it different from Visa?

THE WITNESS: Do you consider that information proprietary and not relevant?

MR. HUGHES: Let us confer for a second, please.

(Whereupon, the witness and Mr. Hughes conferred.)

(Question read.)

MR. HUGHES: There is a certain high degree of proprietary information associated with this project.

Perhaps you can answer in a very general way without revealing the sensitive nature of the information. Is that possible?

THE WITNESS: I am not sure.

A Project Beta referred to a new product

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that was of a different physical configuration from Visa.

Q I am very confused by what you mean by that. I don't want to dig into B&W's dark, dark secrets, even though we do have a protective order and this document was produced.

MR. HUGHES: I realize that, but on both sides there have been certain areas where documents may be produced and mention projects, and the parties have been courteous to each other in recognizing that some projects have a higher degree of sensitivity than others.

Inasmuch as they are not related to the issues in the lawsuit, we respect each other despite the existence of the protective order.

MR. HINTZ: Yes.

Q With that subtle or not so subtle hint, let me cut it short and ask, did Project Beta relate to cigarettes having circumferences of less than 21 millimeters?

A No, it did not.

MR. HINTZ: Nice and simple.

MR. HUGHES: Thank you.

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Q Mr. McMurtrie, let us go back to Project Visa and the DuPont results.

I hand you what has been previously marked as Defendant's Exhibit 238. The subject of this document is "Review of Visa DuPont Testing Results," and you will see that you received a copy of this document.

Do you see that?

A Yes, I do.

Q In the upper right-hand corner of the document there is the word "Comments," with a question, and the initials LKT, which I believe is for Mr. Templeton, and LOM, which I believe is for Mr. Mosser.

Am I correct that those are those gentlemen's initials?

A Correct.

Q Is this your handwriting?

A Yes, it is.

Q The AM with the X subscript?

A Correct.

Q Does this indicate this was to be returned back to you?

A That's correct.

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Q This document, according to the purpose, and I am paraphrasing, of course, compiles and reviews all DuPont Visa testing to date.

It indicates, under "Key Findings," "Testing began in March, 1985." Do you see that?

A Yes, I do.

Q Where did the original Visa products that were tested in March 1985 come from?

MR. HUGHES: I object.

There is no foundation for that question on this record.

Q I don't know if you know or don't.

A I don't recall one way or the other.

Q Is it your understanding, in March 1985 that Brown and Williamson had the ability to make Visa products?

A I don't recall one way or the other.

Q The second paragraph under "Key Findings," there is a reference towards the end for competitive lights 100 products. Do you see that?

A Yes.

Q As of this time, June 1986, is it fair

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to say that the Visa samples were still being tested against these competitors' products, Virginia Slims Lights 100, B&H Lights 100, Virginia Slims Lights 100, menthol, and Salem Slim Lights 100?

A You say "still being tested against." I don't recall that they had previously been tested against.

Q When we looked earlier at Exhibit 384, which I think you still have in front of you, they are being tested against those competitors' products in November 1985; is that correct?

A That is correct.

Q Let me help us both out.

If you turn to the second page you will see a heading "Nonmenthol Results," towards the bottom, and above that it says, "Currently at Dupont, Round #6 is being conducted. Both the nonmenthol and menthol tests contain Visa samples plus Virginia Slims Lights 100."

Do you see that?

A Yes, I do.

Q From late 1985 and into the summer of

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1986 the Visa samples were being tested against competitors' slims products; is that correct?

MR. HUGHES: I object.

I don't think there is necessarily a foundation for that question. There is quite a large time span.

A Other than the results shown, I have no recollection of tests involving competitors' products one way or the other.

Q Let us see if we can refresh your recollection, because you testified you had some involvement with these tests.

Look on the second page, please, under "Methodology Overview."

The nonmenthol test and the menthol test are broken out by each of the five rounds.

Do you see that?

A Yes, I do.

Q In the second, fourth, and fifth rounds there are competitors' slims and slims lights products; is that correct?

A Second, fourth and fifth?

Q Yes.

MR. HUGHES: I object to the extent

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the document speaks for itself.

MR. HINTZ: The whole premise of this is I am trying to refresh the witness's recollection.

He said he couldn't recall the extent of testing of competitors' products, and I am just trying to help him out.

MR. HUGHES: I understand that.

MR. HINTZ: Let us not debate it.

MR. HUGHES: You are asking him to read from the document. That is my objection. The document speaks for itself. If you want to ask him whether it helps him, that is another question.

MR. HINTZ: Right now I would like to see if Mr. McMurtrie sees that in 2, 4 and 5 competitors' slims and slims lights products tested against the Visa samples.

A I see that on this page, yes.

Q We have looked, farther down, Round 6 was a test involving Visa samples and Virginia Slims lights 100's.

Do you recall that and do you see that in Exhibit 238?

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A I see that there.

Q From this information, can you recall which of the DuPont rounds, 1 through 6, you were involved with?

A No, I cannot.

Q At the very bottom of page 2, there are the non-menthol results, and it begins with round No. 1, and indicates March 1985.

I previously asked you if you knew where that product came from.

What I would like to do is ask you if you would turn the page to page 3 for round No. 2. It is also indicated in March 1985.

Do you know where those samples came from for the Visa products?

A No. I don't recall one way or the other.

Q How about round 3, August 1985. Do you know where those samples were manufactured or made for Visa products?

A I don't recall one way or the other.

Q How about round No. 4, which is indicated to be November 1985, do you recall where those were manufactured or made?

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A I don't recall one way or the other.

Q If you you will turn the page to page 4 of Exhibit 238, please, at the very bottom under the heading "Next Steps," the paragraph reads, "The above information is to be used as a reference point in the decision-making process of how to proceed next with regards to CPT's."

Do you see that?

A Yes, I do.

Q Were you involved in the decision-making that is referred there?

A Yes, I was.

Q What was your involvement?

A To offer input to the interpretation of the DuPont results.

Q Did you in fact offer your interpretation?

A Yes, I did.

Q Who did you offer your interpretation to?

A Either Tilford Riehl or Lance Reynolds.

Q Am I correct they would have been or they were your supervisors at that time?

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A One of the two.

Q What did you report as to your interpretation of the DuPont results?

A I don't recall one way or the other.

Q When did you make your report?

A I don't recall one way or the other.

Q Was your report written?

A I don't recall one way or the other.

Q In coming up with your interpretation of the DuPont results, did you use Exhibit 238?

A I don't recall one way or the other.

Q Exhibit 238 is a summary of all five rounds of DuPont testing.

Do you believe that you used Exhibit 238 in coming up with your interpretation?

A I don't recall one way or the other.

Q Under the "Next steps" column on page 4 that we were just looking at, the following sentence reads, "RD&E will be recommending which candidates will go forward for consumer testing."

Do you see that?

A Yes, I do.

Q Who at RD&E was to make that recommendation?

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A I can't tell from this document.

Q Was your group a part of RD&E in this time frame June 1986?

A Yes, we were.

Q In your various positions, have you always been a part of RD&E or for as long as that department has been in existence?

A Yes.

Q One last thing before we leave this document, just so I am clear on terminology. The CPT's that are referred to, that is consumer product test?

A Correct.

Q That is something different than the DuPont test; is that correct?

A That's correct.

Q Is it fair to say that in the hierarchy of consumer testing, a DuPont test would be the first test, then a CPT, then an EUT?

A No, it is not fair to say.

Q That is what I get for going out on a limb.

Let me show you what has been previously marked as Defendant's Exhibit 116.

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This is a report of Visa Task Force minutes, May 22, 1986.

You will see on the distribution column, the second column on the right, you received a copy of this document, and you are listed as an attendee of the meeting towards the bottom of the page.

Do you see that?

A Yes, I do.

Q If you would turn to the second page, you will see a subheading, "No. 2, Product."

In the second paragraph, it refers to DuPont testing that is in progress, and the last sentence reads, "Based on DuPont results, RD&E will recommend which candidates will be evaluated in a CPT."

Do you see that?

A Yes, I do.

Q That is very similar to what we just looked at in Defendant's Exhibit 238, as far as RD&E will recommend which products will go forward.

Do you recall when we looked at that?

A Yes, I do.

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Q Off to the left of this in Exhibit 116, talking about the RD&E recommendation there, are the names Mosser, Templeton and McMurtrie.

Do you see that?

A Yes.

Q Does that indicate that the three of you were responsible for making that recommendation?

A No, it does not.

Q Does it indicate that one or more of the three of you were responsible for making the recommendation?

A Not necessarily.

Q What does it indicate?

A It indicates that one, or in combination of the three, have responsibilities for the variety of tasks shown in the paragraph next to it.

Q One of those tasks is the RD&E recommendation; is that correct?

A That's correct.

Q One of the three of you or some group of the three of you had that responsibility to make the recommendation indicated in that

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paragraph in Exhibit 116?

A There is a responsibility for a level of recommendation from that group.

Q What do you mean by "a level of recommendation"?

A There is no -- let me start over again.

This group of people who have made a recommendation as to what candidates should proceed into consumer product tests to their higher management. This document doesn't stipulate what level this decision is being made at.

Q Of the three names listed here, Mosser, Templeton and yourself, you were the highest of the three, is that correct, in the management chain?

A That's correct.

Q Is it fair to say that if Mosser or Templeton made the recommendation they would have made it to you?

A That's correct.

Q You, then, would have passed it on to your superior?

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A That's correct.

Q Is it also fair to say that if you had made the recommendation, you would not have given it to Mosser or Templeton, you would have given it to your superior?

A That's correct.

Q Your superior then was one of either Tilford Riehl or Lance Reynolds?

A Correct.

Q Is it true, then, that one of those two gentlemen would have passed it on to their superior?

MR. HUGHES: I object to the extent it calls for the witness to speculate. If he knows, he can testify on the basis of what he knows.

A The procedure for making a recommendation for products to consumer test is not necessarily consistent or totally defined.

Q In some cases the decision could be made at a level at, let's say, Mr. Riehl's or Mr. Reynolds's level, and some other cases it may be higher?

A That's correct.

Q Is it ever the case with Project Visa

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that a consumer product test, the final level of recommendation was your level?

A I don't recall one way or the other.

Q Please turn to the first page of Exhibit 116, the very first paragraph. Do you see your name under the heading "Action Required"? Do you see that?

A Right.

Q This paragraph, let us break it down by sentences. The first sentence, "Concurrent with the CPT, machinery commissioning, run-in, and test market manufacturing activities will proceed."

Did you have any responsibility for those items identified in that sentence?

A No, I did not.

Q The second sentence on page 3 of the first paragraph reads, "By the week of 6/16, McMurtrie will provide manufacturing with full product specs of the candidates judged most likely to proceed to test market."

Do you see that?

A Yes, I do.

Q Is that the part of this paragraph

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that you were responsible for?

A That's correct.

Q This indicates that you were to provide full product specs of the candidates judged most likely to proceed to test market.

A That's correct.

Q Who did select the candidates who were judged most likely to proceed to test market?

A I don't recall one way or the other.

Q Would this case indicate to you that you made that selection?

A This wouldn't indicate to me one way or the other.

Q This, I am sure, is a very broad question, but what is meant by "full product specs," just in general?

A In general, full product specs would be specifications for all the specifications required to manufacture the cigarette itself unrelated to anything outside of the cigarette itself.

Q What types of specifications would that cover or would be included in full product specs?

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A It would include such things as the blend to be used, additives to be applied to that blend, configurations; many things.

Q Configurations would include length, circumference?

A Correct.

Q Would the specs also include paper specifications?

A Yes.

Q Tipping and plug wrap?

A That's correct.

Q Everything?

A Correct.

Q Full product specs.

(Witness nods affirmatively.)

Q In coming up with those product specs, where did you get the information that you needed?

A I don't understand the question.

Q Let me take it back.

You were responsible, according to Exhibit 116, for providing full product specs for these candidates?

A Correct.

Q Did you in fact provide those full

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product specs?

A I don't recall one way or the other.

Q In this time frame, which is May-June 1986, were you personally making Visa cigarette samples?

A Was I, personally?

Q Yes.

A Can you define what you mean by "making"?

Q Physically taking paper and tobacco and forming a tobacco rod and attaching it to a filter.

A With my own hands?

Q Yes, or using some tool or machinery.

A I am not being contentious, but I still find it ambiguous as to what you mean by making it, using some tool.

Q I am trying to get an image whether you sat behind a desk or had people in a laboratory making things or in a work area or whether you went out and occasionally made --

A The former more accurately describes my role at the time.

Q Is it fair to say in developing

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product specs, you would be using information from people that reported to you, people in your group, who had actually created or made Visa samples?

A That is correct.

Q At this time, while this is not an all-inclusive list, that would have been at least Mr. Templeton and Mr. Cantrell; is that correct, and let me add Mr. Mosser I remember also?

A That is not necessarily correct.

Q Would you turn, please, in Exhibit 116 to production No. 42-090. You will see those numbers at the bottom of the page. The page I am looking at has the heading "Visa Timetable."

Do you see that?

A Yes.

Q Under the heading "B. Product Development," the fifth bullet down reads, "CPT candidates recommended 6/9," and then under a column indicating responsibility, "R. Templeton, L. Mosser, and A. McMurtrie."

Do you see that?

A Yes, I do.

Q Is that the same responsibility that we looked at on page 2 that you and Mr. Mosser and

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Mr. Templeton had regarding recommendation of which candidates to be evaluated in a CPT?

A I can't say that for certain.

Q Let us take it one step at a time, then.

If you can flip back and forth with me, page 2 under "Products," second paragraph on the left-hand side has the names Mosser, Templeton, McMurtrie.

A Correct.

Q The timetable has Templeton, Mosser and McMurtrie, the same three names; is that correct?

A That's correct.

Q On page 2, in that second paragraph, the third sentence talks about "RD&E will recommend which candidates will be evaluated in a CPT," and the timetable says "CPT candidates recommended."

Basically the same thing; right?

A Right.

I see where my reservations came from. I didn't notice that the Visa timetable at the end had a target date week of 6/9. I was

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looking at the 6/13 date on the first page.

I believe those to be the same items.

Q Thank you.

Now if we could kind of do the same thing, flipping between page 3 and the timetable, the seventh bullet item in the timetable says, "Most likely product candidates identified." Do you see that?

A Yes.

Q On page 3, the first paragraph by your name, the last part of that sentence talks about "Candidates judged most likely to proceed to test market."

Do you see that?

A Yes, I do.

Q That is the same information on the timetable as on page 3?

MR. HUGHES: I object. I don't think that necessarily follows. That mischaracterizes the document.

Q Do you agree with me, Mr. McMurtrie?

A I don't see that it necessarily follows.

Q That is what your counsel said. I

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really don't care what he thinks. I would like to know what you think.

Do you agree with me? If you don't, fine.

A No, I don't agree with you.

Q It talks about, in the timetable, target date week of 6/16 for the most likely candidates identified. Do you see the target date?

A Yes, I do.

Q On page 3, that first paragraph says, "By the week of 6/16," the same week; correct?

A Correct.

Q The timetable responsibility, there is only your name; do you see that?

A That's correct.

Q On page 3, under "Action Required," there is only your name?

A Correct.

Q Do you agree with me now that the item in Visa timetable, "most likely product candidates identified," is talking about the same thing as is on page 3, first paragraph, second sentence?

A I can't say that for certain, no.

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Q Then let us stick to the timetable and see if we can nail down what it is referring to. The seventh item, the "most likely" item, you are indicated as having responsibility for that; is that correct?

A That's correct.

Q You were the one who was to identify the most likely product candidates; is that correct?

A That's correct.

Q Was that identification based upon the previous DuPont test results?

A I can't say that for certain.

Q But it was based on something?

A That's correct.

Q It wasn't just a wild guess?

A That's correct.

Q I am guessing here, by my math, the tenth item, the second one from the bottom on the timetable, "Final Product Decision" --

A Correct.

Q -- Week of 9/8."

A Okay.

Q "Responsibility, A, McMurtrie." Do you

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see that?

A Yes.

Q That indicates you had responsibility to make a final product decision after the CPT results, the item before, and before the test market production, the item after; is that correct?

A It appears to say that. That would not be correct. I would not make the final decision.

Q That would be made by someone superior to you in the chain of command?

A That's correct.

Q Did you make a recommendation as to the final product which should be used for test market?

A I don't recall one way or the other.

MR. HINTZ: I am going to go back now to our old friends, Dupont Testing. I will ask the reporter to mark as Defendant's Exhibit 385 a multipaged document produced by Brown and Williamson, bearing production numbers BWH 9-176 through 185. It is dated June 10, 1986, from Ms. B. A. Reasor to Mr. L. O. Mosser.

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(The document above referred to was marked as Defendant's Exhibit 385 for identification, this date.)

Q Mr. McMurtrie, do you see on Exhibit 385, you are indicated as a copy recipient?

A Correct.

Q I don't know one way or the other whether this is the way the document was, but on the next page of Exhibit 385 are some other results where you are a copy recipient. Do you see that?

A Yes, I do.

Q The first page, the "Nonmenthol Round No. 6" is the subject, and the second page is the "Menthol Round No. 6." Do you see that?

A Yes.

Q If you look at the first page of Exhibit 385, there is an indication of which products were evaluated. There are five Visa products and then Virginia Slims lights nonmenthol.

Do you see that?

A Yes, I do.

Q Once again, as we saw in some previous

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exhibits, the Visa products were tested against a competitor's lights product, slim lights product?

A They were tested with a competitor's product in the test.

Q Is that different from being tested against that product?

A Yes.

Q How so?

A Sensory testing, in a general sense, products can only be tested against another product in a two-product test.

Q In your terminology, testing one product against another means a head-to-head, one-on-one comparison; is that fair to say?

A Using the standard sensory testing terminology, yes.

Q Was that ever done with Project Visa cigarettes against a Virginia Slims cigarette?

A I don't recall one way or the other.

Q Were any head-to-head tests conducted between Project Visa samples and any competitor's slim cigarette?

A I don't recall one way or the other.

Q In Exhibit 385, right above the

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heading "Number of Smokers," there is a paragraph, in the first line there is a reference to "LD-NM prism panels." What does that refer to?

A LD stands for low delivery. NM is nonmenthol. Prism refers to a specific type of panel.

Q What type of panel is that?

A Prism panels involve trained smokers evaluating cigarettes on specific attributes.

Q Are the trained smokers B&W employees?

A No.

Q Were the smokers trained by DuPont personnel?

A Yes.

(Whereupon, at 12:30 p.m., a luncheon recess was taken.)

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A F T E R N O O N S E S S I O N

May 29, 1991

1:20 p.m.

A N D R E W M c M U R T R I E , having been previously duly sworn, continued and testified further as follows:

EXAMINATION CONTINUED

BY MR. HINTZ:

MR. HINTZ: I will ask the reporter to mark as Defendant's Exhibit 386, a two-page document bearing production numbers BWH 9-51 through 52, dated May 30, 1986, from Mr. A. McMurtrie to Mr. G. D. Raphael.

(The document above referred to was marked as Defendant's Exhibit 386 for identification, this date.)

Q Mr. McMurtrie, Exhibit 386 is a document authored by you; correct?

A That's correct.

Q It is to a Mr. G. D. Raphael. What was Mr. Raphael's position in May of 1986?

A I don't know his actual title.

Q What was his area of involvement that he worked in?

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A Market research.

Q In the first paragraph, under the heading "Purpose," the sentence reads, "To request that two nonmenthol Visa and two menthol Visa candidates be evaluated among the Visa target audience to determine the better product of each style to enter into test market."

Do you see that?

A Yes, I do.

Q What is the Visa target audience that is referred to there?

A What specific audience or in general what would the target audience be?

Q This specific Visa target audience, what does that mean?

A I don't recall what this specific Visa target audience would be.

Q How about in general, do you recall what the general Visa target audience was?

A Target audiences are the audiences which marketing provides to be the smokers that you do your consumer testing among.

Q Marketing determines what the targeting audience would be for a particular

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product?

A That's correct.

Q Is it also correct that the testing that is done on samples is done with that target audience or representatives from that target audience?

MR. HUGHES: I object to the indefinite nature of the question as phrased.

A I don't understand the question.

Q Let us go back to what we talked about this morning, all the DuPont testing, six rounds of DuPont testing.

Was that testing done using representative consumers from the target audience for Visa?

A I don't recall one way or the other.

Q Is it your belief that that was done?

A I don't have a belief one way or the other.

Q So that testing could have been done on people that Brown and Williamson had no intention of ever trying to sell cigarettes to?

A I can't pass judgment on that. Those tests were performed amongst the people that

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marketing requested and we conducted the tests amongst.

Q Marketing requested your group to conduct the test among?

A That's correct.

Q What types of people did marketing request be included in that group?

A I would have to refer back to a specific test.

Q Here is Exhibit 238. That is the subject matter of the Visa test results for the first five rounds.

With that document to help refresh your recollection, can you identify the target audience for Visa products that were used in the DuPont tests.

THE WITNESS: I am sorry. Could you repeat the question?

(Question was read.)

A Not with any certainty, no.

Q Does Exhibit 238 provide you with any information as to the composition of the target audience for Visa products?

A It tells me who the actual testing was

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conducted amongst.

Q Who was that?

A Female lights 100 smokers. That is where it shows what smokers were involved. It appears to be female lights 100 smokers.

Q So the target audience for Visa products at least included female lights 100 smokers; correct?

A Not necessarily.

Q Why not?

A The database of smokers the DuPont facility has to draw on does not always have enough of a target audience smoker to constitute a full panel. Therefore, some panels are conducted amongst smokers which are not part of the target audience just to generate a sufficient number of panels to get responses.

Q But from the information contained in Exhibit 238 and other exhibits we have looked at, the only panelists that were used were slim lights 100 smokers, lights 100 smokers. And I think that's it; is that correct?

A Is that a question for me?

Q Yes. Do you agree?

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A I have seen those two smoker groups in the documents, yes.

Q I may be missing something but, in Exhibit 238, I don't see where this says it was females. But to your understanding it was female smokers that were used?

A It does say female.

Q Other than the female lights 100's and the female slim lights 100 smokers as being in the target audience, what other types of smokers were in the target audience?

A I don't know that we concluded that females lights 100's were part of the target audience. All I can say is they were the smokers which were used in these tests.

Q They were used in all six rounds of the DuPont tests?

A I haven't seen all six rounds.

Does this document contain all six rounds? Those are the only smoker groups that I see in the document of the six rounds; correct.

Q The document you are referring to is Exhibit 238?

A Correct.

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Q Let us go back to Exhibit 386. This is the document you wrote to Mr. Raphael. The last paragraph reads, "A direct test versus Virginia Slims is not recommended."

Do you see that?

A Yes.

Q Why did you report that to Mr. Raphael?

A Direct tests were unlikely to give results that were meaningful.

Q Why not?

A Because of obvious visual differences between the products.

Q The visual difference being circumference?

A Correct.

Q Any other visual difference?

A That's the only visual difference that comes to mind.

Q If a direct test had been conducted, would the results have been skewed one way or another for the Visa product, either favoring it more or less?

MR. HUGHES: I object. You are asking

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the witness to speculate as to something that did not occur.

A I couldn't speculate one way or the other.

Q You couldn't or you choose not to? There is a difference.

A I choose not to.

Q You could, based on your experience?

MR. HUGHES: His function is not to sit here today and form an opinion. If he previously considered it in the relevant time frame, that is one thing, but to require him to sit here today and form an opinion about activities that occurred five years ago is not proper and is not factual and is not the subject of depositions in this case.

MR. HINTZ: That is what I am trying to get at. I asked him if he could or if he chose not to.

I would like his understanding as to how a direct comparison would skew the results one way or another.

Q If you don't know, that's one thing, but if you have a belief about that I would like

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to know.

A I honestly could not say it would skew one way or another.

Q Would you turn to the second page of Exhibit 386, please, under the heading "Research Objective."

I would like to read this long sentence. It reads: "The purpose of this research is to measure the reactions to Visa candidates 'A' and 'B' (both menthol and nonmenthol) among female smokers of Slim Lights, and Lights 100 and 120 female-positioned brands which are anticipated to provide inflows to Visa."

Do you see that?

A Yes, I do.

Q Is this the target market for Visa, namely, female smokers of Slim Lights and Lights 100 and 120 female-positioned brands?

A I can't say that with any certainty.

Q What does the latter part of the sentence mean, namely, "anticipated to provide inflows to Visa"?

A Quite honestly, the wording under "Research Objective," hypothesis and management

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decision are usually given to research and development by marketing and marketing research to incorporate in this document. The burden of producing this document falls on R&D, but the actual research objective and hypotheses are given by marketing and marketing research.

So I can't speculate exactly what marketing or marketing research means by "anticipated to provide inflows to Visa."

Q So you just took these three sections and put them in your document?

A That is correct. That is how we do that.

Q What individual provided you with these three paragraphs that you identified?

A I can't recall.

Q If you go back to the first page, the purpose again was to request two nonmenthol Visa and two menthol Visa candidates to be evaluated.

Did that evaluation ever take place?

A An evaluation of two nonmenthol and two menthol candidates took place.

Whether the evaluations which took place are the ones that are referred to

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specifically in this document, I can't recall one way or the other.

MR. HINTZ: I will ask the reporter to mark as Defendant's Exhibit 387 a two-page document bearing production numbers BWH 28-72 through 73. It is dated June 9, 1986, from Mr. L. O. Mosser to Mr. G. D. Raphael.

(The document above referred to was marked as Defendant's Exhibit 387 for identification, this date.)

Q Mr. McMurtrie, you are indicated as a copy recipient of Exhibit 387; is that correct?

A Correct.

Q The subject of this is Visa nonmenthol CPT proposal.

Do you see that?

A Yes.

Q Under the "Purpose," it is stated, "To request that two nonmenthol Visa candidates (A and B) be evaluated among the Visa target audience to determine the better product for test market introduction."

Do you see that?

A Yes, I do.

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Q If you look back at Exhibit 386, which we were just looking at, the purposes indicated in Exhibit 386 are for "two nonmenthol Visa and two menthol Visa candidates be evaluated among the target audience."

A That's correct.

Q Is Exhibit 387 a subpart of the purpose talked about in Exhibit 386, namely, the nonmenthol part?

A I can't say that with complete certainty, no.

Q Defendant's Exhibit 386 was written by you. Defendant's Exhibit 387 was written by Mr. Mosser.

Did you transfer responsibility for the Visa consumer research to Mr. Mosser in about June 1986?

A No, I did not.

Q Do you know why you wrote the May 1986 document, Exhibit 386, and Mr. Mosser wrote the June document, Exhibit 387?

A No. I can't recall one way or the other.

Q Did Mr. Mosser report to you at that

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time?

A Yes.

MR. HINTZ: I will ask the reporter to mark as Defendant's Exhibit 388 a three-page document bearing production numbers BWH 103-213 through 215, dated June 9, 1986, from Mr. L. O. Mosser to Mr. D. L. Scholten.

(The document above referred to was marked as Defendant's Exhibit 388 for identification, this date.)

Q Mr. McMurtrie, you are indicated as a copy recipient on Exhibit 388; correct?

A Correct.

Q If I could ask you to look at Exhibit 387, you will see that 388 and 387 bear the same dates and are both written by Mr. Mosser and they both relate to Visa nonmenthol CPT; is that correct?

A That's correct.

Q In Exhibit 388, these are the specifications for the candidates A and B that are attached. Is that correct, also?

A That's correct.

Q If you turn to the first page of

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attachments, production No. 214, there are several numbers at the top for blend number and types of casing and top dressing.

Do you see that?

A Yes.

Q Are you familiar with any of those identifying numbers?

A Not those numbers specifically, no.

Q Are you familiar with the blend that was used in the Visa nonmenthol CPT candidates in June 1986?

A Not by this blend number, no.

Q But in general terms are you familiar?

A Very general terms, yes.

Q Did that blend contain any stems?

A No, it did not.

Q Did it contain any reconstituted tobacco?

A Yes, it did.

Q Did it contain any expanded tobacco?

A No, it did not.

MR. HINTZ: I will ask the reporter to mark as Exhibit 389 a multipaged document, BWH 42-79 through 84.

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The first page of which appears to be a routing slip and the second page of the exhibit is "Visa Products Sub-Task Force Minutes, June 17, 1986."

(The document above referred to was marked as Defendant's Exhibit 389 for identification, this date.)

Q Mr. McMurtrie, the first page, which I described as a distribution slip or a routing slip, indicates that you were to receive a copy of this document. Is that correct?

A The first page indicates that I routed this document to people whose names appear on the list.

Q The second page shows you as a copy recipient of these minutes?

A That's correct.

Q By the identifying numbers on the minutes themselves, would you turn to page 2? That is production No. 081. At the top it has the word "Tobacco." Do you see that?

A Yes.

Q The first sentence says, "The blends under consideration for Visa use no add-ons (e.g.,

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expanded tobacco, stem)."

Do you see that?

A Yes.

Q What other add-ons are being referred to here other than expanded tobacco and stem?

A What other add-ons?

Q Yes. It says that no add-ons are used, and then it says "e.g.,", or for example, and it lists those two. I am wondering what other add-ons were not included in the Visa blend.

A I am sorry. I don't understand the question.

Q This indicates that the blends under consideration -- let me not paraphrase it. It says, "The blends under consideration for Visa use no add-ons."

Then it says "e.g.," which means for example, and it lists two particular add-ons. My question is what add-ons, other than those two, were not used in the Visa blends?

A Which ones were not used?

Q Correct.

A From the remainder of the text, small strip -- I need a minute to read the second

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paragraph one more time.

(Witness perusing document.)

A The first sentence specifies that expanded tobacco and stem were not used.

The remainder of the text is not clear to me, whether small strip was or was not under consideration for Visa at that time.

Q Are you familiar with the term "tobacco filler"?

A Yes.

Q What generally is tobacco filler, as that term is used at B&W?

A At B&W we don't usually use the term tobacco filler.

Q What is your understanding, then, of the phrase "tobacco filler"?

A My understanding is, it is what we refer to as filler tobacco, which are tobaccos which are used primarily for economic benefit.

Q That would include expanded tobacco or reconstituted tobacco?

A Not in the context that I am used to hearing the term, no.

Q What would it include in the context

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that you are used to hearing the term?

A Grades of tobacco, which neither contribute positively or negatively to smoke quality, but are relatively cheap.

Q Are you familiar with the term "cut tobacco filler"?

A No.

Q The filler tobacco that you described, would that contain stems?

A No.

Q Would it contain expanded tobacco?

A No.

MR. HINTZ: I will ask the reporter to mark as Defendant's Exhibit 390 a single page document bearing production No. BWH 103-247. The top has the legend "Draft," the bottom, "A. McMurtrie."

(The document above referred to was marked as Defendant's Exhibit 390 for identification, this date.)

Q Mr. McMurtrie, can you identify Defendant's Exhibit 390?

A May I take a minute to read it, please?

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Q Sure.

(Witness perusing document.)

THE WITNESS: Can you repeat the question?

(Question read.)

A I am sorry. What do you mean by "identify"?

Q Can you tell me what it is?

A It's a document that I apparently wrote, with recommendations concerning further testing.

Q Further DuPont testing; is that correct?

A No.

Q Let us go directly to the last paragraph. The first sentence says, "However, we strongly recommend eliminating the CPT, and proceeding directly to an EUT following one additional round of DuPont acceptability testing."

Is the further testing you just referred to the EUT?

A Yes.

Q What is an EUT?

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A It's an extended usage test.

Q How is an extended usage test conducted?

A An extended usage test is conducted in the same manner as a standard CPT or consumer product test, with the exception that more product is placed in the consumer's hand, so they smoke it for a longer period of time.

Q This document says, "We strongly recommend."

Who is the "we," you are referring to?

A I don't recall.

Q This sentence indicates that you were recommending the EUT following one additional round of DuPont acceptability testing.

Is that the sixth round that you are referring to there?

A I can't tell from this document.

Q Who was this document to be sent to?

A I don't recall.

Q But you were making a recommendation in this document?

A Yes.

Q And that would have gone up to someone

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who was a superior in the chain of management?

A That's correct.

Q This document is a draft.

Did you ever send a document where you recommended elimination of the CPT and proceed directly to an EUT?

A I don't recall one way or another.

Q Do you recall if CPT was eliminated for Visa products?

A CPT's were not eliminated.

Q CPT's were actually conducted on Visa product?

A That's correct.

Q Was an EUT conducted on Visa product?

A I don't recall one way or the other.

Q If you will look at the second to last paragraph, the first sentence under the heading "Next Steps," it reads, "The planned EUT testing of our best Visa products is the key to determining the products viability."

Do you see that?

A Yes.

Q What did you mean by it being the key to determining the product's viability?

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A In general, the result of a consumer test increases in validity the longer that the consumer has the opportunity to try the product.

Q At the time you wrote this document, did you have some doubt as to the Visa product's viability?

A I don't recall having any doubt about the product's viability, no.

Q Then why was an EUT test necessary in your mind to determine the product's viability?

A Consumer testing is conducted for two purposes: One is to generate information when information is needed. The other is a CYA.

Q Should - take it your recommendation for an EUT was of the latter?

A That's correct.

Q In EUT testing that is referred to in Exhibit 390, would that have included competitors' products along with the Visa samples that were to be tested?

A EUT is a strictly monadic test. It is one product testing.

Q So a given consumer who was involved in the EUT test would be provided with one type of

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product?

A That's correct.

MR. HINTZ: I will ask the reporter to mark as Defendant's Exhibit 391 two pages bearing production Nos. BWT 126-043 to 044. The heading on both documents is "Visa Dupont Summary."

(The document above referred to was marked as Defendant's Exhibit 391 for identification, this date.)

Q Mr. McMurtrie, you will see these two pages are substantially identical. I will represent to you that there are differences between the two. They both bear the same title. The second page of Exhibit 391 has your name on the bottom.

Do you see that?

A Yes.

Q Can you identify either of these two pages of Exhibit 391?

A I do not specifically recall either one of these documents, having seen either one of these documents.

Q Let me ask you this, to try to tie the two together.

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The first one looks to me as if it were printed on a different type of printer than many of the other formal routed B&W documents that we have seen?

A That's correct.

Q Did you at some point have a computer that you used and you would print drafts of documents on and then have your secretary clean them up for you?

A Yes, I did.

Q Do you believe that is what Exhibit 391 represents, your initial draft and then a revision to that draft by your secretary?

MR. HUGHES: I object. There is no foundation on the record thus far, based upon his prior answer.

I caution the witness not to speculate.

A I don't know one way or the other.

Q That is certainly a possibility?

MR. HUGHES: Same objection.

A I will not speculate.

Q I don't think it is going to break the case wide open, but I am just trying to tie the

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two together.

Let us stay on the first page. The first paragraph under "Nonmenthol," I would like you to look at the fourth line from the bottom, and I will read it. It says, "We are now perceived as at parity or lower in acceptability versus competition."

Do you see that?

A Yes.

Q What is the competition that is referred to there?

A The document doesn't say what the competition is and I don't recall one way or the other.

Q We saw several instances where Visa DuPont testing was conducted with Lights 100 and Slim Lights 100 products. Do you remember our discussions on that?

A Yes.

Q Do you believe that is the competition that is referred to in Exhibit 391?

A I believe those would be the competitive products.

Q That is the term we looked at in

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earlier exhibits?

A Right.

Q But this term says "Competition"?

A Correct.

Q Are those two the same thing in your mind?

A We use them interchangeably and either one could refer to a competitive product or a product which is the competition. They are interchangeable.

Q Under the heading "Menthol," the very last sentence reads, "Our two best candidates (Beta and Amelia) have consistently tested as more acceptable than the target product, Virginia Slims Lights 100."

Do you see that?

A Yes.

Q Is it your understanding that the Visa product was to be based upon the target product, Virginia Slims Lights 100?

MR. HUGHES: I object.

There is no foundation for that question on this record.

A I don't have an understanding one way

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or the other.

Q But you wrote this; is that correct? If you don't want to use the first page we can turn to the second page of Exhibit 391, and that same sentence appears there on the second page, which has your name there.

A My name is on the document. I honestly do not recall writing this document.

Q So you have no explanation for the term "the target product," when it refers to Virginia Slims Lights 100; is that correct?

A No, I have no speculation.

Q I don't want your speculation.

You don't have any understanding at all?

A The target products again are something which are defined for product development by marketing.

I don't claim to understand what the target product for this project was or if Virginia Slims is indeed a target product. That is a marketing call and a marketing issue.

Q Exhibit 391, though, says that the target product is Virginia Slims Lights 100;

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correct?

A That's correct.

Q The sentence we are looking at refers to the two best candidates, Beta and Amelia. Do you see that?

A Yes.

Q Is that Beta different from the Project Beta we were talking about earlier this morning?

A No. That would be the same Beta.

Q I believe at that time I was gently nudged away from asking questions about that.

According to Exhibit 391, was Beta a type of Visa cigarette?

A No. I will clarify.

Beta, in the context of this document, in all likelihood refers to the blend which was being used in Project Beta.

Q And Amelia is a blend that was used --

A Likewise.

Q There is also a blend I have seen, Stetson.

A Stetson, correct.

Q Correct?

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A Correct.

Q Did Beta contain stem in its blend, and what I mean to say is did the Beta blend that is referred to here contain stem?

A Yes, it did.

Q Did the Amelia blend contain stem?

A Amelia, as a general term, referred to a number of blends, some of which contained stem, some of which did not.

Q Does the Capri product contain stem in its blend?

A The current Capri product?

Q As of May 1989?

A As of May 1989, no.

Q As of May 1989, was the Capri blend the Amelia blend without stem?

MR. HUGHES: I caution the witness not to guess.

A I don't recall one way or the other.

Q But it wasn't the Beta blend since the Beta blend contained stem?

A That's correct.

Q As of May 1989 did the Stetson blend contain stem?

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A Yes.

Q As of May 1989, Capri was not the Stetson blend?

A That's correct.

Q Up until the end of May 1989, were there any other blend code names considered for Visa or Capri cigarettes?

A I don't recall one way or the other.

MR. HUGHES: If you are going to switch topics, can we take a short break?

MR. HINTZ: Okay, a short break.

(Recess.)

Q Mr. McMurtrie, I am going to show you what has been previously marked as Defendant's Exhibit 117, and I am also going to hand you what we looked at earlier, Defendant's Exhibit 116.

I have opened 116 to the Visa timetable. If you could open up Exhibit 117 to the timetable, on BWH 9-77, Exhibit 117 lists under "Product Development," in the fourth bullet, "Final product decision, week of 9/22, responsibility, A. McMurtrie."

That is the same information that was in Exhibit 116, except for the target date was two

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weeks later.

Do you see that?

A Yes, I do.

Q Do you believe Exhibit 117 is an error in listing you as having the responsibility for the final product decision?

A Taking the words literally, yes.

Q Am I correct, though, that you were involved with making the decision about what the final product would be that would be used to go to test market production?

A Can you define "involved"?

Q Someone made a recommendation to you that you passed on or you made a recommendation that was passed on to someone who ultimately made the decision.

A Yes. To some extent, yes.

MR. HINTZ: I ask the reporter to mark as Defendant's Exhibit 392 a three page document, bearing production numbers BWH 56-57 through 59.

(The document above referred to was marked as Defendant's Exhibit 392 for identification, this date.)

Q Mr. McMurtrie, I would like you to

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look at the second page of Exhibit 392. We won't take long on this. In the "Approved By," in the upper left-hand corner, are those your initials?

A Yes.

Q I will represent to you that Brown and Williamson produced many of these sample specification/pilot plant work requests where your initials were on the "approved by."

I don't want to ask you about any of them in any great detail, but as this one is a representative sample, I would just like to ask you a few questions.

The first is, was it your responsibility to approve the pilot plant work request such as this in about 1986?

A Technically, yes.

Q What do you mean by "technically"?

A The approval process for pilot plant was basically requested by the person who runs the pilot plant to ensure that people are not requesting things indiscriminately.

As it was explained to me by the person who ran the pilot plant, that if he were to get a work request from an experienced product

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developer, he would not have cared if it was approved or not.

It was primarily to make sure that the less experienced people had someone making sure that they were not indiscriminately requesting samples. Consequently, if an experienced developer like Roy Templeton brought a request to me for approval, I would put my signature on it.

If he decided to send it in without giving it to me for approval, the head of the pilot plant would make it anyway.

Q Who was the head of the pilot plant at that time?

A Bruce Bandy.

Q At the bottom of the third page of Exhibit 392 there is a B. A. Bandy. Is that Bruce Bandy?

A That's correct.

Q There is a P. A. Dearing. Who is that?

A Pat Dearing.

Q Is that Mr. or Ms.

A Ms., Patricia.

Q What was her responsibility or job

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title? I guess this is April 1986.

A She was a technician. One of her responsibilities was to track all development center sample requests.

Q She was a technician in your group?

A At that time I don't know if she was in my group or not.

Q Was she a technician in --

A In product development, yes.

Q Let me show you a document that was previously marked as Defendant's Exhibit 264. You will see on the first page you are indicated as a copy recipient of these sub-task force minutes.

I would like you to look at the second page of Exhibit 264, under the item 2, "Acceptance Limits."

It reads, "In a separate meeting on 9/5, initial acceptance limits were discussed and agreed to on Visa product. Present were D. Scholten, R. Templeton, J. Knoop, D. McMurtrie, and myself."

Do you see that?

A Yes.

Q Do you recall being involved with

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the formulation of acceptance limits on Project Visa?

A Yes.

Q What was your involvement in that?

A My involvement was with the other product developers to have input and to mutually agree upon and accept or reject limits for consumer product tests.

Q What was Mr. Scholten's position at this time, September of 1986?

A I can't say for certain at that time.

Q Was he in product development?

A Yes.

Q At this time, is it correct that Mr. Templeton was in product development and reported to you?

A That's correct.

Q How about Mr. Knoop?

A He was not in product development.

Q What group or area was he involved in?

A Manufacturing.

Q The "myself" is Mr. Sharp, the author of Exhibit 264. He was in marketing; is that correct?

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A That's correct.

MR. HINTZ: I will ask the reporter to mark as Defendant's Exhibit 393 a three-page document bearing production numbers BWH 103-163 to 165. It is to R. H. Honeycutt from D. L. Scholten, the date is September 8, 1986.

(The document above referred to was marked as Defendant's Exhibit 393 for identification, this date.)

Q Mr. McMurtrie, you are indicated as a copy recipient of this document.

The first paragraph of the document refers to September 5, 1986, meeting of Sharp, Knoop, McMurtrie, Templeton and Scholten, to finalize acceptance limits.

Do you see that?

A Yes.

Q That is the same thing we looked at in Exhibit 264; is that correct?

A It is very likely, yes.

Q The second sentence in the first paragraph of Exhibit 393 states, "These limits were also discussed in Macon with Messrs. Honeycutt and Hamann on September 4."

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McMurtrie

Were both of those two gentlemen located in the Macon facility in September 1986?

A Yes.

Q Were they both responsible for manufacturing in general terms?

A In very general terms, yes.

Q Would you turn to the second page of Exhibit 393. The very first entry relates to "blend components."

Do you see that?

A Yes.

Q There is a reference there: "Since no add-ons are used in Visa, this includes each individual tobacco grade, and EBR."

What does EBR stand for?

A The acronym I think could be considered to be proprietary information.

MR. HUGHES: Let me confer for a moment, please.

MR. HINTZ: Okay.

(Whereupon, the witness and Mr. Hughes conferred.)

MR. HUGHES: There is a certain amount of sensitivity with respect to that term, but I

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think he can answer it in a general way that will be sufficient for your purposes.

A It is an acronym, without getting into what the acronym stands for, it is a type of reconstituted tobacco.

Q The specification for blend components is plus or minus 10 percent of target.

I am a little confused about the sentence afterwards. Is the reference there to this includes each individual tobacco grade, does that refer to the plus or minus 10 percent?

A Yes.

Q Is the 10 percent also plus or minus 10 percent of the target value for EBR?

A That's correct.

Q This document again indicates no add-ons are used in Visa as we saw earlier; correct?

A That's correct.

Q Mr. McMurtrie, we have looked at several documents today that you have been copied on relating to Project Visa.

Do any of these documents help refresh your recollection of what your involvement was on

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McMurtrie

Project Visa?

A No.

Q Where I am headed is, I would like to ask you what your involvement was on Visa throughout the life of that project.

MR. HUGHES: I object to the vague and indefinite nature of the question as phrased.

A I am not sure what you mean by "involvement."

Q When we began this morning -- I am trying to find out when you first became involved, and I believe you testified you did not recall when that was.

The first document I have been able to find and one that I showed you is November 1985. We have seen in that document it indicated that you would be responsible for new product, and Mr. Templeton was to have responsibility for, I believe, menthol, and Mr. Mosser was supposed to have responsibility for nonmenthol.

We have seen documents about your involvement with DuPont testing, and acceptance limits.

I am trying to get a general overview

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of what your involvement has been on Project Visa from that late 1985 time frame to whenever the involvement ended.

A In a general sense, my involvement with Visa was as a manager of the product development group with responsibilities for product developers who were working on the Visa Project; and during a portion of that period of time I was also manager of accountability for all DuPont testing.

Q When you were responsible for the product developers who were working on Project Visa, who were the developers who were working on the project?

A That changed over time.

Q At any time can you give me the names?

A Those product developers who at one time or another worked on Project Visa?

Q Yes, that you were responsible for?

A Roy Templeton, Larry Mosser, and -- let me ask for a point of clarification. Would that also include people that I became responsible for who had worked on Visa but were not working on Visa at the time they reported to me?

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Q Yes.

A I would also include Dan Cantrell. What date? Prior to --

MR. HUGHES: Prior to the end of May 1989.

A I believe that's it.

Q As a manager, were you responsible for overseeing the work that these developers were conducting on Project Visa?

MR. HUGHES: I object to the indefinite nature of the question as phrased.

A Can you define "responsible"?

Q If somebody got mad at Mr. Templeton for sending too many samples to the pilot plant, who would they come and talk to? You?

A It depends upon who it is that is mad.

Q Say it was Mr. Sandefur.

A Mr. Sandefur would get mad at me.

Q So you were responsible for product developers' work? They worked for you?

A They reported to me, yes.

Q Did they keep you advised of what work they were doing on Project Visa when they reported to you?

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A Yes, they did.

Q We saw one type of pilot plant work request that you approved.

Is it fair to say that you saw many such pilot plant requests for samples by your product developers?

MR. HUGHES: In general or on Project Visa?

MR. HINTZ: On Project Visa.

A I will qualify the answer. I probably saw -- there were probably more that I didn't see than I did.

Q But you knew what was going on in the product development department on Project Visa?

A As a manager in a top line general sense, yes.

Q Do you know what the ranges of circumferences looked at for Project Visa were?

A No, I don't know.

Q Do you recall if any of your product developers ever made Visa samples at, let's say, 15 millimeter circumference?

A I don't recall one way or another.

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Q You testified earlier that, during a portion of the time for Project Visa, you were the manager with accountability for all DuPont testing, and that Dupont testing included testing of Project Visa samples; is that correct?

A That's correct.

Q During the DuPont testing of Project Visa samples, did any of the DuPont panelists ever remark that the Visa samples were elegant?

A I don't recall one way or the other.

Q As a part of DuPont testing, were consumers ever asked if the Visa samples were elegant or had an elegant appearance?

A During the time when I had responsibility for Project Visa, that question would not have been asked.

Q As a part of your management responsibilities, you were also aware of the consumer product testing that was done on Visa, the so-called CPT tests; is that correct?

A Correct.

Q In those tests, did consumers ever remark that the Visa samples were elegant or had an elegant appearance?

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A I don't recall one way or the other.

Q In those CPT tests, were the consumers asked to describe their impressions of the product?

A If they were, I am not aware of that.

Q During your thirteen years at Brown and Williamson, have you ever heard a cigarette referred to as being an elegant cigarette?

A Yes.

Q What cigarettes have you heard called elegant?

A Capri.

Q Excuse me?

A Capri.

Q When did you hear it referred to as being elegant?

A I can't recall one way or the other a specific incident.

Q Do you believe the Capri cigarette is an elegant cigarette?

A Yes, I do.

Q What other cigarettes are elegant cigarettes?

MR. HUGHES: You should confine your

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answer to what you considered prior to the end of May 1989. If you considered that then you may answer.

THE WITNESS: Prior to the end of May 1989?

MR. HUGHES: Yes.

MR. HINTZ: I might as well state an objection to that instruction unless it deals with work product. I think that cutoff date has nothing to do with this question.

MR. HUGHES: Will you allow your witnesses to answer questions like that?

MR. HINTZ: We already have. We do it all the time.

MR. HUGHES: I don't think that is true.

MR. HINTZ: The advertisement you put on as Exhibit 112 is after the cutoff document.

MR. HUGHES: There is a specific agreement with respect to that particular document, I believe.

Q Mr. McMurtrie, can you answer the question?

A I cannot think of another cigarette

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that I would describe with the word elegant.

Q So the Virginia Slims Superslims cigarette is not elegant, correct, to your understanding?

A I personally would not describe the Virginia Slims -- I am sorry. Excuse me. Could you repeat the question?

Q Yes. You said you couldn't think of any other cigarette that was elegant and I said that the Virginia Slims Superslims cigarette is not elegant?

MR. HUGHES: Objection as to the time frame in which he answers that question.

A I can't say I considered it one way or the other.

Q To backtrack slightly on your responsibilities and involvement with Project Visa, were you ever involved in the packaging aspects related to that project?

A I had no responsibility for packaging.

Q Let me show you Defendant's Exhibit 118. I don't know this means you had any responsibility or not, but that is why I am asking.

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This is the minutes from a packaging sub-task force meeting, and the attendees are listed there, and you are listed as one of the attendees.

Do you know why you attended this particular packaging meeting?

A I don't know why I attended this specific packaging meeting, no.

Q Do you know why you would have attended a packaging meeting?

A Product development and packaging people recognize the need to have close liaison in developing a new product.

Q In the development of the Project Visa product, which side of the equation took longer, the product development side or the packaging development side?

A Because neither product development nor the packaging proceeded in a straight line, I can't answer the question which one took longer.

Q Did one side encounter more difficulties than the other or problems?

A I didn't work on packaging. I can't comment on packaging.

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Q But you were involved in meetings or being kept up-to-date on what they were doing; isn't that correct?

A That's correct. The extent of those meetings, to a large extent, were to ensure that materiality used in the packaging were not transferred to the product causing them to have bad smoke quality effects, things along those lines.

This is typical of any product we develop.

Q Did your management responsibilities, as they related to Project Visa, ever include work on a low sidestream cigarette product?

A Could you repeat the question, please?

(Question read.)

A No.

Q Prior to May 30, 1989, were you aware of anyone at B&W conducting work on a low sidestream Capri product?

A I can't recall one way or the other.

Q Mr. McMurtrie, I am going to hand you two exhibits, Exhibits 11 and 12. Exhibit 11

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is a copy of what we call the original Luke patent and Exhibit 12 is a copy of the reissue Luke patent. I do them both at the same time so you are aware there are two patents.

My question is, have you ever seen either of those two before today?

A Yes.

Q Which have you seen prior to today or have you seen both prior to today?

A I have seen the reissue patent.

Q Let us take Exhibit 11 away and keep Exhibit 12 in front of you.

When did you first see Exhibit 12?

A I don't recall.

Q Do you recall the circumstances under which you saw Exhibit 12?

A No, I don't.

Strike that. I do. It was circulated to me. It was circulated to me as well as other people. I don't recall the other people. I don't recall when.

Q Do you recall who circulated it?

A No, I don't.

Q Did you ordinarily receive copies of

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Brown and Williamson patents?

A Yes, regularly.

Q Did any of the product developers who worked for you refer to the Luke patent, Exhibit 12, during their development work, to the best of your knowledge?

A I don't recall one way or the other.

Q When you received a copy of the Luke patent, Exhibit 12, what did you do with it?

A Read it and passed it on to the people on the circulation list.

Q When you say you read it, did you read Exhibit 12 from beginning to end?

A I don't recall one way or the other.

Q Let's see if we can refresh your recollection. On the first page there is a great deal of information in the left column and there is a heading "References Cited," and there is a list of other publications.

Do you see the other publications? It continues on in the right-hand column.

A I don't see that.

Q I am sorry. In the left-hand column there is a heading "Other Publications."

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A Correct.

Q It lists some and it continues on to the second column?

A Correct.

Q Did you read through those references?

A Yes.

Q At the time that you read Exhibit 12, were you familiar with any of those references listed under the "Other Publications" heading?

A Yes, I was.

Q Which references were you familiar with?

A The Bidi cigarette.

Q Anything else?

A No.

Q How had you come to be aware of the Bidi cigarette?

A I don't recall one way or the other.

Q When were you first aware of the Bidi cigarette?

A I don't recall specifically one way or the other.

Q Was it early in your career at Brown and Williamson in the late 1970's?

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A I don't recall specifically one way or the other.

Q I am trying to help you recall by your jobs.

Did you become aware of the Bidi cigarette when you were an analytical chemist?

MR. HUGHES: I caution the witness not to speculate, if you don't recall.

A I don't recall.

Q Did you become aware of the Bidi cigarette as a development chemist at Brown and Williamson?

MR. HUGHES: Again, don't speculate.

A I was aware of it as a development chemist. But whether I became aware of it as a development chemist or prior to that when I was an analytical chemist, I don't recall.

Q But that at least helps me understand, at least you were aware of the Bidi cigarette when you were a development chemist?

A You are talking about a development chemist as a specific title.

Q Yes.

A I apologize. I thought you were

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talking in general terms as a product developer. No. I cannot be specific as to whether I was a development chemist, senior development chemist or scientist, at what time. I don't know.

Q There is a listing in the other publications column for Exhibit 12, of a Ten Cent cigarette.

Have you ever heard of that cigarette?

A I have heard of that cigarette, yes.

Q When did you first hear of that cigarette?

A I don't recall when I first heard of that cigarette.

Q Do you recall the circumstances when you first became aware of the Ten Cent cigarette?

A Yes.

Q What were those circumstances?

A I recall hearing about a Ten Cent cigarette during a meeting that included some B&W lawyers.

Q When was that meeting?

A I don't recall specifically.

Q Who else was at that meeting?

A Mick McGraw, Chuck Lamb, and there

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were others.

Q Was Mr. Luke present at that meeting?

A Yes, he was.

Q What was said about the Ten Cent cigarette at that meeting?

MR. HUGHES: I caution the witness that you need not answer that question on the ground of attorney-client privilege and work product.

Q Who talked about the Ten Cent cigarette at that meeting?

A Specifically, I don't recall.

All I really recall is, during that meeting mention was made of a cigarette, a Ten Cent cigarette.

Q Do you recall where the meeting was held?

A It was held in a conference room at the Brown and Williamson Tower in Louisville.

Q I believe that previous witnesses have testified that meeting took place in the spring of 1988.

Does that accord with your recollection or does that not help you at all?

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A I can't recall specifically when the meeting was.

Q You identified three people that were there: McGraw, Lamb and Luke.

Was a Mr. McLean, there?

A McLean?

Q McLean.

A I don't recall one way or the other.

Q How about lawyers from Morgan and Finnegan; was a Mr. Diaz there?

A I don't recall one way or the other.

Q Why were you present at the meeting?

MR. HUGHES: I object.

To the extent, you can answer the question, to the extent your answer would reveal the substance of attorney communications, you need not answer the question on the ground of attorney-client privilege and work-product immunity.

Q Can you answer the question?

A No, I can't.

Q Was your role related to a potential lawsuit involving the Luke reissue patent?

MR. HUGHES: I issue the same caution

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to the witness, that if your understanding arose as a result of communications with attorneys you need not answer the question on the grounds of attorney-client privilege and work-product immunity.

A I cannot answer the question.

Q Is it fair to say that you were at the meeting because an attorney asked you to be there?

A I don't recall one way or the other.

Q Then why were you at the meeting?

MR. HUGHES: Asked and answered.

I issue the same caution to the witness.

MR. HINTZ: You can't caution him to not reveal attorney-client privilege and leave it up to him as to what is privileged or not. You know the law of privilege. The witness does not.

If he was not told by an attorney to be there, it is a legitimate question to ask who told him to be there and why.

MR. HUGHES: You didn't ask him that.

MR. HINTZ: I asked him why. You are saying he can't answer that.

MR. HUGHES: Because he may not have

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been specifically asked by an attorney to come but he may have been asked by somebody on behalf of an attorney. That is a proper basis for advising him that he need not answer it, because he is revealing attorney-client privileged information.

MR. HINTZ: All he is revealing is why he was there. It is not privileged why he was there.

MR. HUGHES: If the explanation came from an attorney, it would be privileged.

MR. HINTZ: Anything the attorney says is privileged?

MR. HUGHES: In the context of this meeting and for this lawsuit it is privileged and work product.

MR. HINTZ: For this lawsuit, you certainly have taken a broad brush to what is privileged and work product.

MR. HUGHES: I don't think that is necessarily true, but this is neither the time nor place to argue about it, sir.

MR. HINTZ: Exactly.

Q Who asked you to be at the meeting?

A I don't recall one way or the other.

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Q Was it a Brown and Williamson lawyer?

A I don't recall one way or the other.

Q At the time of the meeting, who was your direct supervisor?

A I don't know because I can't recall when the meeting took place.

Q Is it fair to say it would have been either one of Mr. Riehl or Mr. Reynolds?

A Correct.

Q Were either Mr. Riehl or Mr. Reynolds at the meeting?

A Mr. Reynolds was at the meeting. I don't recall if Mr. Riehl was at the meeting or not.

Q How long did the meeting last?

A I don't recall one way or the other.

Q Were you present for the entire meeting?

A No.

Q Were you present at the beginning of the meeting?

A I can't say for certain whether I was or was not.

Q What I am trying to get to is were you

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asked to leave at some point and the meeting continued as far as you understood?

A I don't recall at the end of the meeting. I do know when I went into the conference room there were people already there.

Did it constitutes a meeting? A premeeting? I don't know.

When I left there were people in the conference room. I don't know if there were meetings afterwards or not.

Q Who spoke at the meeting?

MR. HUGHES: I caution you not to speculate. Only if you remember.

A I am not speculating. Mr. McGraw spoke at the meeting. Mr. Luke spoke at the meeting. Those are the only people I can recall with certainty.

Q When these two individuals spoke, was it in the form of a presentation or was it more of a round table discussion?

A It was more of a discussion.

Q Was anyone from BAT present other than Mr. Luke?

A I don't recall anyone else being

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present.

Q Did Mr. Luke talk about the Ten Cent cigarette?

A I don't recall who specifically spoke about the Ten Cent cigarette.

Q Was Philip Morris discussed at this meeting?

MR. HUGHES: I object.

Now you are getting into the substance of the discussion. I advise you, you need not answer the question on the grounds of attorney-client privilege and work-product immunity.

A I cannot answer the question.

Q Did you say anything at the meeting?

A I don't recall one way or the other.

Q Let us go back to Exhibit 12, if we can, please, the Luke reissue patent.

For simplicity, stay on the first page. Do you see the abstract?

A Yes.

Q There is a reference there in about the middle of that paragraph to the free-burn rate of the rod being within a range of 25 to 45

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milligrams per minute.

Do you see that?

A Yes, I do.

Q Were the Visa cigarettes that your group worked on cigarettes with a free burn rate within that range of 25 to 45 milligrams per minute?

A I am sorry, would they --?

Q Were they within that range?

MR. HUGHES: I object to the question, to the extent you are tying the question to construction of a patent, which might call for expert or opinion testimony.

If he has previously considered whether or not the free burn rate of Visa samples came within that range and he remembers that information, he is free to testify on that basis.

MR. HINTZ: No, sir, that is not correct.

MR. HUGHES: If you are going to ask him to interpret the document, I am going to advise him not to answer the question.

MR. HINTZ: I can pick the date on the document and ask him what he did on that date. I

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am speaking of two numbers out of this document, 25 to 45 milligrams per minute. I am simply asking whether any of the Visa samples that his group worked on fell within that range of free burn rate.

MR. HUGHES: Apart from the patent?

MR. HINTZ: Using these words out of this patent in the abstract as a reference. What they mean in the patent, I don't care.

Q Do you understand the question, Mr. McMurtrie?

A No, I don't.

Q I will start back at the beginning.

Do you see the reference in Exhibit 12 to the free burn rate being within a range of 25 to 45 milligrams per minute?

A Yes, I do.

Q Did any of the Visa samples that your group worked on have a free burn rate within a range of 25 to 45 milligrams per minute?

A Can you be specific as to what you mean by the Visa samples my group worked on?

Q Any cigarette samples that were worked on in relation to Project Visa; the Dupont

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samples, the consumer product samples, samples that were just made for whatever purpose.

A Did any of them fall within this range?

Q Yes.

A Yes.

Q Did all of them fall within that range?

A I have no way of knowing that.

Q Do you know of any that fell outside of that range, either on the low end or the high end?

A I don't recall one way or the other any falling outside of that range.

Q So you do not know of any that did fall outside the range?

MR. HUGHES: I object. You are mischaracterizing his answer.

Q If you don't recall that they did or didn't that means you don't recall any that did; is that right?

A I don't recall one way or the other any of them falling outside of that range.

Q So you can't tell me for certain that

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any of them did?

MR. HUGHES: I object. You are arguing with the witness. You are trying to get something out of the answer that is not there.

A The same answer as before.

I cannot recall any that did or did not fall outside of that range.

Q Does the phrase "free burn rate" mean the same thing as "static burn rate"?

A My interpretation is that free burn rate and static burn rate mean the same thing.

Q Did anyone in your group ever test the free burn rate or static burn rate of the Visa or Capri products to determine if it was within the range 25 to 45 milligrams per minute?

A A person in my group performed a free burn or static burn rate on Capri cigarettes, yes.

Q I am sorry. You said a person did?

A Yes.

Q Who was that?

A The person who actually conducted the test or the persons who had the tests conducted?

Q Let's start with who actually conducted the test.

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A The person who actually performed the test was a technician.

Q What was the name of that technician?

A Theresa Gray.

Q Who requested Ms. Gray to perform that test?

A Roy Templeton.

Q Did Mr. Templeton report the results in a document?

A Yes, he did.

Q Have you seen that document recently?

A Yes, I have.

Q When did you last see that document?

A I can't remember whether it was this morning or yesterday afternoon; one of those two days.

Q That was during a meeting with your counsel in preparation for this deposition?

A That's correct.

Q Let me show you Defendant's Exhibit 380.

If you look at the first page, is that the document you are referring to?

A Yes.

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Q You looked at the attachments just now. Were those documents attached to this first page when you saw it?

A When I saw it when?

Q Yesterday or this morning?

A I have seen all three of these documents, yes.

Q The first page of Exhibit 380 is from Mr. Templeton to Mr. Kohnhorst and you received a copy of this document; correct?

A Correct.

Q Mr. Templeton reports in the first sentence, "I was requested to verify that Capri's static burn rate (SBR) is within the range specified by patent number 4,637,410."

Did you request Mr. Templeton to perform that test?

A Yes, I did.

Q Why did you make that request?

A Someone requested that I have the test performed.

Q Who was that?

A I honestly can't recall who asked that, who made that request.

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Q This document from Mr. Templeton is going to Mr. Kohnhorst.

Mr. Kohnhorst was not Mr. Templeton's immediate supervisor at that time; is that correct?

A Correct.

Q You were his immediate supervisor?

A Correct.

Q Based on that, do you believe it was Mr. Kohnhorst who made the request of you?

MR. HUGHES: Objection. Don't speculate.

A That would be speculation.

Q Do you recall one way or the other if it was or wasn't Mr. Kohnhorst?

A I don't recall one way or the other. There are times when I get requests directly from Kohnhorst, and there are times when I get requests saying Earl has requested something be done, and there were times when I was asked and they say Mr. Kohnhorst needs to be addressed with the results.

I cannot recall one way or the other.

Q How did you make the request of

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Mr. Templeton to test Capri's static burn?

A I am sorry. Can you define that or give me an example?

Q Did you write him a note or did you tell him verbally?

A No, I told him verbally.

Q Do you recall what you told him?

A In the most general sense I told him, we needed to run static burn rate tests on Capri cigarettes.

Q Did you tell him what static burn rate test you wanted him to perform?

A Yes.

Q What test did you tell him to perform?

A Both the linear free burn rate and the weight loss method.

Q You told him to perform both tests?

A Yes.

Q Did Mr. Templeton perform both tests?

A He had both tests performed.

Q I am sorry. Thank you.

Does Mr. Templeton report the results of both tests in Exhibit 380?

A In Exhibit 380, including all three

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pages, yes.

Q That report is found on the third page of Exhibit 380?

A Correct.

Q The first page of Exhibit 380 reports the data for the linear free burn rate; is that correct?

A The numbers are the same as the linear free burn rate, yes.

Q Do you know why Mr. Templeton did not use the numbers for the weight loss method?

A No, I don't.

Q The second page of Exhibit 380 is a note from you to Mr. Kohnhorst; is that correct?

A Correct.

Q Was that note attached to the Templeton document, the first page of Exhibit 380, when that was sent to Mr. Kohnhorst?

A I don't recall one way or the other.

Q The second page of Exhibit 380 starts off, after "Earl," it says, "Words of explanation."

Why did you provide these words of explanation to Mr. Kohnhorst?

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A I don't recall one way or the other.

Q Did you think it important to tell Mr. Kohnhorst about the two methods?

MR. HUGHES: Objection; calling for speculation.

A I don't recall one way or the other.

Q Did you think that Mr. Kohnhorst didn't know about the two methods for measuring free burn rate specified here?

MR. HUGHES: Objection; calls for speculation.

A I don't recall.

Q The next sentence reads, "There is no ASTM or ISO method for determining free burn rates."

Do you see that?

A Yes.

Q What does ASTM stand for?

A I may not have the exact words. ASTM stands for, I believe, American Standards Testing Methods or American Society for Testing Methods, something like that.

ISO stands for International Standards Organization.

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Q Those are two organizations that provide standard test methods for various products, and processes not just related to the tobacco industry; is that correct?

A That's correct.

Q Are there standard test methods collected or published by a particular organization that are unique to the tobacco industry?

MR. HUGHES: May the have the question again, please.

(Question read.)

A I can't say with any assurance that there are.

Q The two methods that you list here on the second page of Exhibit 380, linear free burn rate and weight loss method of free burn rate; are those both standard methods at B&W?

A Could you define what you mean by "standard"?

Q Rather than doing that, let me ask a different question.

Does B&W have a written procedure for performing a linear free burn rate test?

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A Yes, they do.

Q Does B&W have a written procedure for performing a weight loss method of free burn rate?

A Yes, they do.

Q Where are those written procedures kept?

A I can't say that I know first of all if there is a central repository for all of our testing methods or not.

In general, within a given area, there will be a series of manuals or binders, whatever, that contain the methods for those that are used in that particular area.

Technicians also keep their own versions where they write down their own little notes, do this, do that.

Q Did you have a copy of those procedures at one time?

A Did I personally have a copy of those procedures?

Q Yes.

A No.

Q Were they available to you in your group?

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A Yes.

Q Were those written procedures the source for the information contained on this second page of Exhibit 380?

A Is the question, did the technician performing this test use written procedures to conduct the test?

Q No. The question is, where did you get the information that you are reporting here to Mr. Kohnhorst?

A This data?

Q No, the second page, where it says 1 and 2, and you list the two methods and provide a description.

A These general descriptions I obtained from a gentleman in our analytical technical services department.

Q Who was that?

A Jim Nall.

Q At the time of Exhibit 380, about January of 1987, was Mr. Nall in charge of the analytical technical services department?

A Yes.

Q How did Mr. Nall provide you with this

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information?

A Verbally.

Q Did Theresa Gray, the woman who performed the SBR tests, work in Mr. Nall's department?

A No.

Q What department did she work in?

A Product development.

Q Did you ask Ms. Gray what tests she performed for Mr. Templeton, as reported in Exhibit 380?

A I did not talk directly with Ms. Gray at all.

Q So you did not ask her what procedures she followed; is that correct?

A That's correct.

Q The procedures you described here are what Mr. Nall told you should be followed; correct?

MR. HUGHES: I object. That mischaracterizes his testimony.

A Could you repeat the question?

Q The procedures in Exhibit 380 that you list, numbers 1 and 2, are what Mr. Nall told you

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should be followed in performing those two tests; is that correct?

MR. HUGHES: I still object. It mischaracterizes his testimony.

A Mr. Nall did not tell me that these are tests that should be run.

Q That was not my question.

What I asked you was, these are the tests, the procedures that Mr. Nall said should be done in performing these tests; is that correct?

MR. HUGHES: I object. That is mischaracterizing his testimony.

A Let me try this: I talked to Mr. Nall, since his area was the area that normally provides the services in performing this analysis.

He asked me if I couldn't have them done in our area, rather than his area, saying that the technicians in my area know the procedures. Could we run them ourselves rather than him interrupting his work flow to have these done.

And I said I would find out whether they can handle it in our lab right now or not.

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I went to Mr. Templeton and asked him to get together with the technician. He went to Ms. Gray.

Q So Mr. Nall was the original person that you asked to perform these tests?

A Correct.

Q And because he didn't want to do it, you then had to go to Mr. Templeton to see if he could find someone to do it within your group?

A Mr. Nall said that it would interrupt their work flow. Could I find someone in our area, correct.

MR. HUGHES: We have been going on for almost an hour and a half. Can we take a break?

MR. HINTZ: Yes, in a couple of minutes.

Q Let me back up, because I am still not sure if I have gotten an answer to my question.

These descriptions that are in Exhibit 380 of the two methods, you testified that Mr. Nall orally gave you this information; is that correct?

A Mr. Nall did not say that the linear

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free burn rate is the specified length of tobacco section marked off. I was generally aware of the differences between these test methods.

When I talked to Mr. Nall, I said, "We have got a request to run some static burn rates."

Mr. Nall said, "You run either linear free burn rates or the weight loss methods."

And I said, "Let's run both."

He said, "I've I've got people down here tied up doing XYZ. If at all possible, could you have these run in your laboratory because the people, the technicians in your lab also know how to do this and they have the equipment to do this?"

I said, "I will check and find out."

He said, "If at all possible it would be good if you did it for me."

Q Is it fair to say, then, the descriptions 1 and 2, on the second page of Exhibit 380, were your understanding of how these two tests are conducted?

A That's correct.

Q You did not refer to the written

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procedures maintained at B&W in drafting these sections?

A No, I did not.

Q In the cc column, would you tell me who Strubel is?

A That is Dave Strubel.

Q What was his position in January 1987?

A He filled a variety of roles in R&D, and among those roles was patent liaison.

Q He was not an attorney though; correct?

A Correct.

Q He was not?

A He was not.

Q Mr. Lamb is a B&W patent attorney or was at that time, Chuck Lamb?

A Correct.

Q Why did you copy these two individuals on this document?

A I don't recall one way or the other.

Q Does that help indicate to you who may have asked you to perform these SBR tests?

A It doesn't make me recall.

Q So you don't know if it was Strubel,

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Lamb or somebody else?

A No. I do not recall.

MR. HINTZ: Why don't we take a short break.

(Recess.)

Q Mr. McMurtrie, still on Exhibit 380, the second page of your note to Mr. Kohnhorst there is a paragraph in the middle beginning with "because," and ending with "test."

Do you see that?

A Right.

Q Rather than me reading that lengthy paragraph, could you read that to yourself, please, and let me know when you are finished?

(Witness perusing document.)

A Okay.

Q The last sentence of that, you say to Mr. Kohnhorst, if he sees anything "distressing in this data, we should ask Jim Nall's group to do a more extensive test."

Did Mr. Nall's group ever do a more extensive test?

A I don't recall one way or the other.

Q Did Mr. Kohnhorst ever report to you

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that he saw something distressing in the data?

A No.

Q The last paragraph, first sentence reads, "I am somewhat concerned that someone could attack this free burn rate tenet somehow since there is no standard published method for determining."

Do you see that?

A Yes.

Q What did you mean by "someone could attack this free burn rate tenet"?

A The underlining of "I" and "somehow" is pretty much reflective that I don't claim to know or understand much about patents.

I didn't know much of the details, but I knew that within the Luke patent there was an element that had to do with free burn rate. That is pretty much the extent of it.

Again, me throwing in "somehow" was a matter of me being overly cautious, out of ignorance, that since the patent had something to do with free burn rate, and I had understood there was no standard published method for free burn rate, that something could go wrong somehow.

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Again, I underlined "I," because it was me, out of ignorance, and not that much familiarity with patents. It was a case of being overly cautious.

Q Do you still have that concern today?

MR. HUGHES: I object. His concerns today are irrelevant. It is beyond the scope of discovery in this case and you need not answer the question.

MR. HINTZ: That is completely ridiculous.

Q Mr. McMurtrie, do you still have that understanding today?

MR. HUGHES: My instruction stands.

Q Do you still have that understanding today based on information you acquired prior to May 30, 1989?

A I cannot answer that question.

Q Did you have that understanding as of May 30, 1989, how someone could attack this free burn rate method somehow since there is no standard published method for determining?

A I honestly don't understand the question.

MR. HUGHES: He explained what he

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meant by the paragraph. Your question does not make sense.

MR. HINTZ: Thank you.

MR. HUGHES: You are entirely welcome.

MR. HINTZ: Whether my question makes sense to you or not doesn't matter.

Let's go on.

Q Mr. McMurtrie, in this document you expressed that you were somewhat concerned that someone could attack the free burn rate tenet somehow since there is no standard published method for determining.

That is what is contained in Exhibit 380; correct?

A That's what it says, yes.

Q You told me what you meant by that.

My question is, did you still have that concern as of May 1989?

MR. HUGHES: I object. You haven't established a foundation as to whether he even considered that up to May of 1989.

MR. HINTZ: It doesn't matter whether he considered it. He had it at one time. Did it vanish or did it stay.

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MR. HUGHES: It assumes if he considered it.

MR. HINTZ: If he never considered it ever, then it stayed and he will tell me, and then I will ask him whether he considered it before then. All I want to know is did he have that concern in May 1989.

MR. HUGHES: Your statement is illogical.

MR. HINTZ: Fine.

Q Mr. McMurtrie, can you answer the question?

A No, I can't. The question is illogical.

Q We will be here all day if you are just going to say what your attorney says. He is not testifying. You are.

A But it doesn't make sense to me.

Q You had this concern that you expressed in Exhibit 380. You had this concern in about January 1987; right?

That is when Templeton was reporting to Kohnhorst. Your document is also going to Kohnhorst about Templeton's SBR tests that were

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done by Ms. Gray. So we are talking about January 1987, February 1987, some time in there.

Do you agree with me on that?

A Those are the dates in the documents, yes.

Q At that time you had this concern that is expressed in Exhibit 380.

Do you agree with me on that?

A Yes.

Q Did you still have that concern that is expressed in Exhibit 380 up until May 1989?

MR. HUGHES: I object. There is no foundation that he considered it. You can't have a concern if you didn't consider it.

MR. HINTZ: If you don't consider it it never goes away.

MR. HUGHES: That is not necessarily true.

MR. HINTZ: We will get Socratic and try to figure this all out.

Q I just want to know whether you still had the concern?

A The word in here "concern" again stems from just being cautious, out of ignorance, about

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patents, what was contained in the patent, what was important to this patent.

Having obtained the requested information, I turned it over to others. I ceased to give it thought one way or the other.

Q That answers Mr. Hughes's question whether you ever considered it.

According to what you have said, if I may paraphrase you, you did not much consider this concern after you reported it in Exhibit 380; is that correct?

A I didn't consider it one way or the other.

Q Did anyone ever come up to you and say Drew, don't be concerned?

A I don't recall anyone saying that.

Q In Exhibit 380, you write that you will make Mr. Strubel and Lamb aware, in case it really is something to be concerned over.

Do you see that?

A Yes, I do.

Q Did you inform them by copying them on this document in Exhibit 380?

A They were copied on the document, yes.

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Q Did you inform them of your concern in some other way?

A I don't recall one way or the other.

Q Did they ever respond to you about your concern, either one of them?

A I don't recall one way or the other.

Q Have you considered this concern any time up to the present since when you first wrote this in Exhibit 380?

MR. HUGHES: That's outside the scope of discovery in this case. You need not answer that question.

Q What did you have for breakfast this morning, Mr. McMurtrie?

MR. HUGHES: Come on, Mr. Hintz, please.

MR. HINTZ: That is the absurdity of your objection.

MR. HUGHES: No.

MR. HINTZ: Anything that can happen up until the cutoff date, as long as it is relevant, is fine. Anything after the cutoff date, even if it's relevant, is not fine.

MR. HUGHES: Mr. Hintz, this is a

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two-way street. You object when I ask questions. We object when you ask questions. We are both honoring that cutoff date.

Why don't you proceed to ask questions in the relevant time period?

MR. HINTZ: We will come to that when we come to damages.

MR. HUGHES: You know very well we have under discussion certain issues.

MR. HINTZ: I know very well.

I will ask the reporter to mark as Defendant's Exhibit 394 a two-page document bearing production numbers BWH 103-138 through 139.

(The document above referred to was marked as Defendant's Exhibit 394 for identification, this date.)

Q Mr. McMurtrie, you received a copy of Defendant's Exhibit 394; correct?

A Correct.

Q This is from Mr. Templeton, and it is called a file note; correct?

A Correct.

Q In the first sentence, Mr. Templeton

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indicates "A cursory examination of Capri's static burn rate has been performed using two B&W testing procedures."

Do you see that?

A Yes, I do.

Q Down below he lists method 1, rate of free combustion and method 2, combustability rate. Do you see that?

A Yes.

Q Are those the same tests as linear free burn rate and weight loss method of free burn rate?

A May I take a minute to read it, please?

Q Sure.

(Witness perusing document.)

A I want to take a minute looking at the statement in No. 2 to make sure I understand what is being said.

(Pause.)

A Okay. The question?

(Question was read.)

A From the information given on the two they appear to be the same methods but there could

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be slight differences between them because not all the information is specified.

Q Are there standard written procedures at B&W for how to perform a rate of free combustion test?

A I know there are written instructions on how to conduct these two types of tests.

I don't know whether those written instructions would call it the rate of free combustion or call it the linear free burn rate.

Q While we are on the subject of written procedures, is there a written procedure to determine puff count at B&W?

A I am sure there is.

Q Is there a separate procedure for determining a puff count of a filtered cigarette as opposed to a nonfiltered cigarette?

A I can't say for sure one way or the other.

Q Who would be the most knowledgeable about the written procedures of those types of tests at B&W?

A I am not eluding the question. What kinds of tests? In other words, different tests

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performed in different areas there would be different people most knowledgeable.

Q I am interested in whatever written procedure there is for determining static burn rate, puff count.

A Those two particular tests, the person most familiar with the written procedures for those would be Donny Marquess.

Q Is there a written procedure for measuring tobacco utilization efficiency at B&W?

A A written procedure, I can't recall one way or the other.

Q Would Mr. Marquess know that information?

A I can't speculate whether he would or wouldn't.

Q Does B&W have a procedure, written or not, for measuring sidestream smoke?

A Yes, they do.

Q Does B&W have a procedure written or not for measuring sidestream smoke visibility?

A That, I don't know.

Q Is the procedure that you know about for measuring sidestream smoke a written

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procedure?

A I don't know that either.

MR. HINTZ: Mr. Hughes, we would like to request all B&W written procedures for measuring static burn rate, however called, whether it is rate of free combustion, combustability rate, linear free burn rate, weight loss method of free burn rate, methods for puff count, tobacco utilization efficiency, sidestream smoke, including sidestream smoke visibility, if any, from any time prior to May 30, 1989.

MR. HUGHES: We will take that request under advisement.

MR. HINTZ: Thank you.

Q Mr. McMurtrie, back to Exhibit 394. If you would compare that, please, to the last page of Exhibit 380, table 1 of Exhibit 394, that is at the bottom of Exhibit 394, with the last page of Exhibit 380. I will represent to you that the data contained in those two documents is the same.

Do you see that also?

A From what I have checked through, yes, they are the same.

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Q Exhibit 394 says that theresults from these two methods, from what is referred to in paragraph 1 as a cursory reexamination -- do you see that?

A Yes, I do.

Q Is it your understanding that Mr. Templeton measured or had measured the static free burn rate on two separate occasions?

A I don't recall Mr. Templeton having measured it on a different occasion.

MR. HINTZ: I ask the reporter to mark as Defendant's Exhibit 395 a single page document, bearing production No. BWH 103-108.

(The document above referred to was marked as Defendant's Exhibit 395 for identification, this date.)

Q Mr. McMurtrie, this is a document that you authored; correct?

A That's correct.

Q The subject is "Capri Nonmenthol Smoke Quality"?

A Correct.

Q The only sentence of the document reads, "I have assessed the smoke quality of the

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Capri NM samples you submitted to me (codes shown below), and find them both to be normal and acceptable."

Do you see that?

A That's correct.

Q How did you assess the smoke quality of these samples?

A As trite as it sounds, I simply smoked them.

Q I had a hunch that was the answer.

Was this part of your normal duties and responsibilities in about June of 1987?

A It is not normal for someone at the level that I was at at the time to be a portion of an ongoing smoke quality review program like this.

What it reflected was the emphasis put on senior management to make sure everything went okay in the test market.

We were bringing in significantly higher number of samples than we usually do from the test market, but we always bring in samples from the test market to make sure the product on the shelf is of the quality that we want the

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consumer to get. Since we had a higher number of samples coming in, I volunteered to participate in checking the smoke quality of those samples along with the rest of the crew.

Q Are you considered to be an expert smoker at B&W?

A Yes.

Q Do you recall problems with tipping paper flare-ups on Capri?

A I am hesitating because of saying it was a problem.

I remember that we were asked to look at whether the tipping used on Capri flared more than normal.

Q What was your conclusion?

A It didn't flare more than normal, but in the course of examining tipping flare for a variety of cigarettes, we found there were certain types of tippings which did flare less than others, and we incorporated the improved tipping flare materials on to Capri after the examination.

Q Was Mr. St. Charles primarily responsible for that work?

A That's right.

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Q Are you familiar with a Project Saber?

A Yes.

Q What is your understanding of what Project Saber relates to?

A Project Saber was a project to develop a higher delivery 17-millimeter product.

Q Was that product ever tested among consumers?

A The product was small scale panel tested among consumers.

Q What were the results of that test?

A I don't recall the details of those results.

Q Was the project discontinued as a result of those tests?

A I don't recall the reason for discontinuing the project.

Q But the project was discontinued at some time?

A The project was discontinued.

Q Are you familiar with a project or a name of a cigarette, Eli Cutter?

A Yes.

Q What was that project or cigarette?

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A That was a conventional configuration nonmenthol cigarette.

Q I am sorry?

A It was a conventional configuration, conventional size, nonmenthol cigarette.

Q Let me back up on Project Saber. What was your role or involvement with that project?

A In whatever job title capacity I had at the time, but I was over the group. I was responsible for looking at a higher delivery 17-millimeter. It was assigned to someone in my area.

Q That assignment was made by you?

A Yes.

Q Who did you assign it to?

A Roy Templeton.

Q Are you familiar with a Project Cirrus?

A I recall the code name but I can't recall what the project was.

Q How about Barclay Lights ultra thins?

A Yes.

Q Those two are equivalent, to your understanding?

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McMurtrie

A I don't put the two of them together. I recall Cirrus and I recall what Barclay Lights ultra thins was, but I don't put the two together necessarily.

MR. HINTZ: Let me see if I can help. I ask the reporter to mark as Defendant's Exhibit 396 a multipaged document bearing production numbers BWT 19-074 through 080.

(The document above referred to was marked as Defendant's Exhibit 396 for identification, this date.)

Q You will see, Mr. McMurtrie, you are indicated as one of the recipients of this document on the first page?

A That's correct.

Q This relates to project Cirrus task force. If you look on the second page under "Product" towards the bottom, the second bullet reads "Capri Product Configuration." The third reads "Cork Tipping," and the fourth reads "Barclay Lights Ultra Thins."

Do you see that?

A Yes, I do.

Q Does that help refresh your

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recollection?

A Yes, it does.

Q What was your involvement with Project Cirrus?

A Again, at that time, having responsibility for all domestic cigarette products, I was the manager of all the domestic cigarette product developers. Anything to do with product, domestic cigarette products at that time, from an R&D standpoint fell under my area.

Q Of the people that reported to you, who worked on project Cirrus?

A I see, looking at this now, Roy Templeton's name.

I don't recall. I am basing that strictly on the names on the document. Roy Templeton.

Q Was Project Cirrus or Barclay Lights ultra thins tested among consumers?

A I don't recall one way or the other.

Q Let me show you what has been previously marked as Defendant's Exhibit 43. This appears to be from B&W's electronic mail system.

The first sentence reads, "Karen

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Brotzger advised today that Project Cirrus (Barclay Lights ultra thins) test market has been discontinued."

Do you see that?

A Yes.

Q Does that refresh your recollection about the consumer testing that was done on Barclay Lights ultra thins?

A My apology. Perhaps it is a difference in terminology.

Consumer product test to me is different from a test market. I apologize.

Q Okay.

A I was aware we went into test market with it.

Q You were also aware that that test market was discontinued at some point?

A Yes.

Q Why was that test market discontinued?

A I have no recollection of why that test market was discontinued.

Q Was the Barclay Lights ultra thins product a failure in test market?

MR. HUGHES: Objection. No

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foundation.

A The determination of what is a success or failure in the marketplace is a marketing issue. It is not a product issue.

Q I understand you may not have decided whether it was a failure or not.

My question is, was it a failure in the test market?

A My answer remains. The definition of a failure is in the eyes of marketing and senior management.

MR. HINTZ: Could you read my question back, please, and let's see if you can answer it, Mr. McMurtrie.

(Question read.)

A My answer was --

Q Your answer was, it was somebody else's decision to make.

A Defining whether it was a success or failure is a marketing or senior management issue.

Q So you don't know whether it was a failure?

A No, I do not know whether it was a success or failure.

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Q Would a product be discontinued if it was a success in the test market?

MR. HUGHES: Objection. Don't speculate.

A I can see a case where a successful product could be discontinued.

Q What case would that be?

A Competition for common smokers.

Q Would that be what is also known as cannibalization?

A Correct.

Q Is that what happened in the Barclay Lights ultra thins case?

A I have no knowledge of what happened in the Barclay Lights ultra thins case.

Q Who would be most knowledgeable about the Barclay Lights ultra thins test market results, be they success or failure?

A I can't speculate one way or the other.

Q Without speculating, would Mr. Sharp know?

A I can't speculate. I don't know.

Q Mr. Sharp is at least in the marketing

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area. He would know more than you; is that correct?

A It would be speculating that he would.

Q Okay. You have been well prepared.

MR. HUGHES: I take exception to that comment. You asked him if he knows and he doesn't know.

What do you want him to do?

MR. HINTZ: I don't see any reason for you to take exception. There was nothing meant by it in an evil or derogatory sense.

MR. HUGHES: Thank you.

Q Mr. McMurtrie, were you involved with a line extension of Capri to a 120 millimeter length?

A Yes, I was.

Q What was the extent of your involvement?

A Again, manager of the product developers who had responsibility for developing that line extension.

Q Which product developers had that responsibility?

A The responsibility, I believe, shifted

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between a couple of different product developers.

Larry Mosser for sure.

I believe the other one was Baran Chakraborty.

I cannot recall for sure Dr. Chakraborty, but for sure Larry Mosser did. There was a hand-off.

Q Were samples of 120 millimeter length Capri cigarettes made prior to May 1989?

A I don't recall one way or the other.

MR. HINTZ: I ask the reporter to mark as Exhibit 397, a document bearing production number BWH 30-15, a single page document.

(The document above referred to was marked as Defendant's Exhibit 397 for identification, this date.)

Q This document is a copy off of B&W's Wizard Mail on the date May 22, 1989.

Is that correct, Mr. McMurtrie?

A That's correct.

Q Is it also correct that the first paragraph, if you will, is a message from Mr. Kohnhorst to you, and in the second paragraph, it is a message from you to Mr. Kohnhorst?

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A That is correct.

Q The message from Mr. Kohnhorst, he asks about two items, the second of which is, "In your opinion do we need to consider increasing the density of our products compared to 'test comp' product?"

Do you see that?

A Yes.

Q What density was Mr. Kohnhorst referring to there?

A Can I read the second portion, please?

Q Yes.

(Witness perusing document.)

Q Perhaps I can speed it up and ask if he is talking about tobacco rod density?

A I have no reason to assume he is not talking about tobacco rod density. When we talk about density it is implied tobacco rod density.

The difficulty I am having is my response, question No. 2, appears to have some words omitted from it.

Q Do you have any information what those words should have been if they had not been

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omitted?

MR. HUGHES: We can see you are puzzled. I caution you, don't speculate. If you have an understanding, that's okay.

A It would be sheer speculation to know what words come after "see" and before "to increase density."

Q How about any belief to the general statement that would be expressed by those words? Would it be something to the effect that, we see no reason to increase density, or no need to increase density?

A Let me try that.

Q I don't want to put you through the wringer trying to figure it out.

A That would be speculation. Those words make sense. I can see other words making sense as well.

Q Did Mr. Kohnhorst ever explain to you why he was questioning about whether he needed to consider increasing the density?

A I don't recall one way or the other.

Q Were you aware of any problems with the test comp product density?

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McMurtrie

A I don't recall the specific message. Nor do I recall what is referred to as the test comp product.

Q Have you seen the Capri 120 cigarettes?

A Yes.

Q Are those cigarettes elegant? Do they have an elegant appearance?

A In my opinion they do, yes.

Q Are they more elegant than the Capri 100's?

A I wouldn't say they are any more or any less.

Q Is the tobacco rod density of the Capri 120's the same as the Capri?

A Yes, it is.

Q Did you or anyone in your group ever undertake to look at the effects of increasing the tobacco rod density of the Capri 120 cigarette?

MR. HUGHES: As of May 1989.

A I don't recall one way or the other.

Q On Exhibit 397, there is an individual S. Houpt. Do you see that?

A Yes.

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McMurtrie

Q Who was that person?

A Steve Houpt, a product developer.

Q Did he report to you as of May 1989?

A He was in my group in May 1989. He reported to Dr. Chakraborty.

Q Dr. Chakraborty in turn reported to you?

A That's correct.

Q What reduced circumference cigarette projects did Mr. Houpt work on as a product developer?

A The only one I can recall is Capri 120's.

MR. HINTZ: I will ask the reporter to mark as Exhibit 398 a single page document bearing BWT 10-05 production number.

A On further reflection, I can think of one additional project.

Q Okay.

A Project Sable.

Q What was Project Sable?

A It could be proprietary.

MR. HUGHES: Let us confer.

(Whereupon, the witness and Mr. Hughes

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conferred.)

(Document bearing production No. BWT 10-04, was marked as Defendant's Exhibit 398 for identification, this date.)

A Project Sable was a project involving a 17-millimeter cigarette with proprietary paper additives.

Q That cigarette for Project Sable had a Brown wrapper; is that correct?

A It had Brown cigarette paper and Brown tipping.

Q Did the proprietary cigarette paper additives have to do anything with reducing the sidestream cigarette smoke from the Project Sable cigarette?

A No, they did not.

Q Was Project Sable discontinued at some point in time?

MR. HUGHES: As of May of 1989?

THE WITNESS: As of May of 1989?

MR. HUGHES: Yes.

A It was still active as of May 1989.

Q Please take a look at Exhibit 398 that is in front of you.

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This is another copy of a piece of Wizard Mail. The subject is "P.M. ultra slims update."

Do you see that?

A Yes.

Q The PM is Philip Morris; is that correct?

A I assume it is.

Q The distribution for this, you are listed as receiving a copy; correct?

A That's correct.

Q What was your involvement with the PM ultra slims samples W4 and Q6, referred to in Exhibit 398?

A Can you define involvement, please?

Q What role did you have, if any, with those cigarettes?

A I am still unclear on role.

Q I can give some examples but I don't want to unduly limit you.

Did you assign people to perform tests on those cigarettes? Did you smoke them yourself? Did you get them from someone and pass them on to someone else? Those types of things

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McMurtrie

would be involvement.

A Yes.

Q Yes to one or more of those? What was your involvement given those examples?

A I did smoke one of the cigarettes. I don't know which cigarette. I don't recall which cigarette.

I did pass these cigarettes on to someone else.

Q Who did you receive the cigarettes from?

A I received the cigarettes from Earl Kohnhorst.

Q Did he give you any instructions when he gave you the cigarette?

A He asked me to take them back to research and development.

Q For what purpose?

A To have some testing performed on them.

Q What testing?

MR. HUGHES: I caution you not to speculate.

A I don't recall specific tests to have

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done on them.

Q Do you recall general tests?

A No.

Q You said that you smoked one of these cigarettes but you don't recall which one.

Did you smoke them as an expert smoker?

A Yes.

Q Did you write a report of your reaction?

A No.

Q Did you give an oral report?

A Yes.

Q Who did you give that report to?

A To Mr. Kohnhorst.

Q Did other people smoke these cigarettes as expert smokers and report to Mr. Kohnhorst?

A I am not -- if someone did, I am not aware of it. I was not aware of it.

Q Did you make your oral report to Mr. Kohnhorst in person?

A Yes.

Q Face to face?

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A Yes.

Q What did you say to Mr. Kohnhorst?

A Specifically, I can't remember.

My only recollection is I said, "It's thin and dry."

Q You testified earlier that you passed the cigarettes on to someone else.

Who else did you pass them on to?

A To John Lauterbach.

Q What was his position in May of 1989?

A Specific title I am not sure of but he had high level responsibilities in the analytical research area.

Q Did you give Mr. Lauterbach instructions of what to do with the cigarettes?

A No.

Q Why did you pass them on to Mr. Lauterbach?

A Because I was asked by Mr. Kohnhorst to pass these on to Mr. Lauterbach.

Q Did you ever see a written report that Mr. Lauterbach or someone in his group prepared regarding these cigarettes?

A I don't recall seeing a written

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report, no.

Q In Exhibit 398, the second sentence reads, "Q6 is apparently low sidestream and ultra low tar, we will get some sidestream numbers today."

Do you see that?

A Yes, I do.

Q Do you recall if the cigarette you smoked was low sidestream?

A I don't recall noticing one way or the other if it was low sidestream.

Q Do you have any information about this reference to "We will get some sidestream numbers today"?

A I know that sidestream numbers were requested.

I did not hear whether an analysis was done. I did not hear what the numbers were.

Q Were those sidestream numbers to be obtained from the method of measuring sidestream smoke that you testified to earlier?

A I don't know.

Q Did Mr. Lauterbach perform static burn rate tests on these cigarette samples?

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A I don't know.

Q Did Mr. Lauterbach perform or have someone perform a puff count test on these samples?

A That I don't know.

Q Did Mr. Lauterbach perform or have someone perform a tobacco utilization efficiency test on these samples?

A That I don't know.

(Recess.)

MR. HINTZ: I have no further questions for Mr. McMurtrie at this time.

MR. HUGHES: We have no questions at this time. Thank you.

(Whereupon, at 5:25 p.m., the deposition was adjourned as above set forth.)

_____

Andrew McMurtrie

Subscribed and sworn to before me this day of , 1991.

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I N D E X

WITNESS	EXAMINED BY	PAGE
ANDREW McMURTRIE	MR. HINTZ	4

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E X H I B I T S

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384	Copy of document bearing Production Nos. BWH 6-05 through 13; dated 11/25/85, from A. Kirby to L. K. Templeton	27
385	Copy of document bearing Production Nos. BWH 9-176 through 185; letter dated 6/10/86 from B. A. Reasor to L. O. Mosser	62
386	Copy of document bearing Production Nos. BWH 9-51 and 52; dated 5/30/86, from A. McMurtrie to G. D. Raphael	65

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387	Copy of document bearing Production Nos. BWH 28-72 to 73; dated 6/9/86, from L. O. Mosser to G. D. Raphael	75
388	Copy of document bearing Production Nos. BWH 103-213-215; letter dated 6/9/86, from L. O. Mosser to D. L. Scholten	77
389	Copy of document bearing Production Nos. BWH 42-79 through 84; entitled "Visa Products Sub-Task Force Meeting," dated 6/17/86	79
390	Copy of document bearing Production Nos. BWH 103-247; entitled "Draft," signed by A. McMurtrie	82
391	Copy of document bearing Production Nos. BWT 126-043 and 044; entitled "Visa Dupont Summary"	87
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394	Copy of document bearing Production Nos. BWH 103-138 through 139; two pages	151
395	Copy of document bearing Production Nos. BWH 103-108; re Capri nonmenthol smoke quality	156
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STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

I, DONNA A. METZ, a Notary Public of the State of New York, do hereby certify that the foregoing deposition of ANDREW McMURTRIE was taken before me on the 29th day of May, 1991.

The said witness was duly sworn before the commencement of his testimony; that the said testimony was taken stenographically by myself and then transcribed.

The within transcript is a true record of the said deposition.

I am not connected by blood or marriage with any of the said parties, nor interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

In witness whereof, I have hereunto set my hand and seal of office at the County and State of New York this 10 day of June, 1991.

Donna A. Metz

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VISA Task Force Mtg 10/1/8-

1. New O_2 2.2% CSP ← most probable
   Detroit 2.6% "
   Dallas 2.7% "
   OK City/Tulsa 1.5% "

2. Embossed wash cut is possibility - impact on fabrication?

3. Possibility of 97 mm product length. Pittman to respond after visiting vendor in Europe.

4. Packer has been reconfigured for 12-10 instead of 12-1-12. Using some box dimension.

5. Machining down-time to reconfigure to 97
   1 month molder (have 2 molders but cannot run)
   2 months packer

   - Very sensitive timing since this may prohibit consumer testing in early 86.

6. Impressed & Arm Detail stamps are 7/16" square same dimension as pack. Fitting bores are 5/8" ⇒ cannot fit.

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7. VISA wide from Marlboro 25's ⇒ for stem/pendum w/o machine adjustment.

8. Drew McMurtrie will pick up all new pivot work.
   - Mosser NR
   - Templeton NR

9. DuPont #4 scheduled for
   11/4 – VISA 1 us 2 us 3

   11/7 – VISA us. Virg. Slims & Virg. Slims Cts.

   Wilkelow/Dennis working on qualitative research with same panelists – will stretch into Dec. to allow DuPont test completion first.

10. Do lamps function at low temps? DAH to clear.

11. Whitehall directed quality of consumer research is more important than confidentiality – target is creative development, not product concept validity/appeal.

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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

TO: Mr. L. K. Templeton

CC: Mr. M. L. Reynolds
Mr. A. McMurtrie
Dr. W. H. Deines
Mr. D. V. Cantrell
Mr. L. O. Mosser
Mr. R. F. Brotzge
Ms. S. Zolper
Mr. R. D. Sharp
Ms. N. Steinschulte

FROM: Ms. A. L. Kirby

DATE: November 25, 1985

SUBJECT: DUPONT RESULTS OF VISA SAMPLES (NONMENTHOL AND MENTHOL) - VISA SAMPLES ONLY AND VISA SAMPLES PLUS COMPETITIVE PRODUCTS/278

Attached are Dupont acceptability and attribute results for VISA Nonmenthol and Menthol samples. For both the Nonmenthol samples and the Menthol samples, two sets of tests were conducted. The first included only VISA samples while the second included the same VISA samples as well as competitive slims products.

For acceptability testing, female smokers of Lights 100 or Lights Slims 100 products evaluated the products using a six-point scale. Prism panelists (LD-NM & LD-M) made replicated monadic ratings for the attributes.

Described below are the products used in this testing.

Nonmenthol	Menthol
278269 - BETA 812D	278271 - BETA 812D
278273 - AMELIA 788C	278272 - KOOL 710T
278275 - STETSON 788E	278274 - AMELIA 788D
Virginia Slims Lights 100	Salem Slims Lights 100
Virginia Slims 100	Virginia Slims Lights 100
	Virginia Slims 100

DEFENDANT'S EXHIBIT 384 dm 5-29-91

The Dupont study I.D.s were 8EJ1, 9EJ1, 1FA1, 2FA1, 6FA1, 7FA1, 8FA1, and 9FA1.

A.L.K./vr

A. L. K.

B&W v P.M.
CAN 89-470-L-B

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ALK/sek/1087j

BWH6-05

Attachment

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BREAKDOWN OF SMOKERS FROM ACCEPTABILITY TESTING

	Testing	
	VISA ONLY	VISA & COMPETITIVE
NONMENTHOL		
Slims		
Silva Thins 100	1	1
Virginia Slims 100	5	2
Others		
B&H Lights 100	1	1
Eve Lights 120	1	1
Marlboro Lights 100	10	7
Satin 100	3	1
	21	13
MENTHOL		
Slims		
Salem Slim Lights 120	1	1
Virginia Slims Lights 100	7	5
Others		
B&H Lights 100	2	1
More Lights 120	1	1
Salem Lights 100	17	16
	28	24

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BWH6-06

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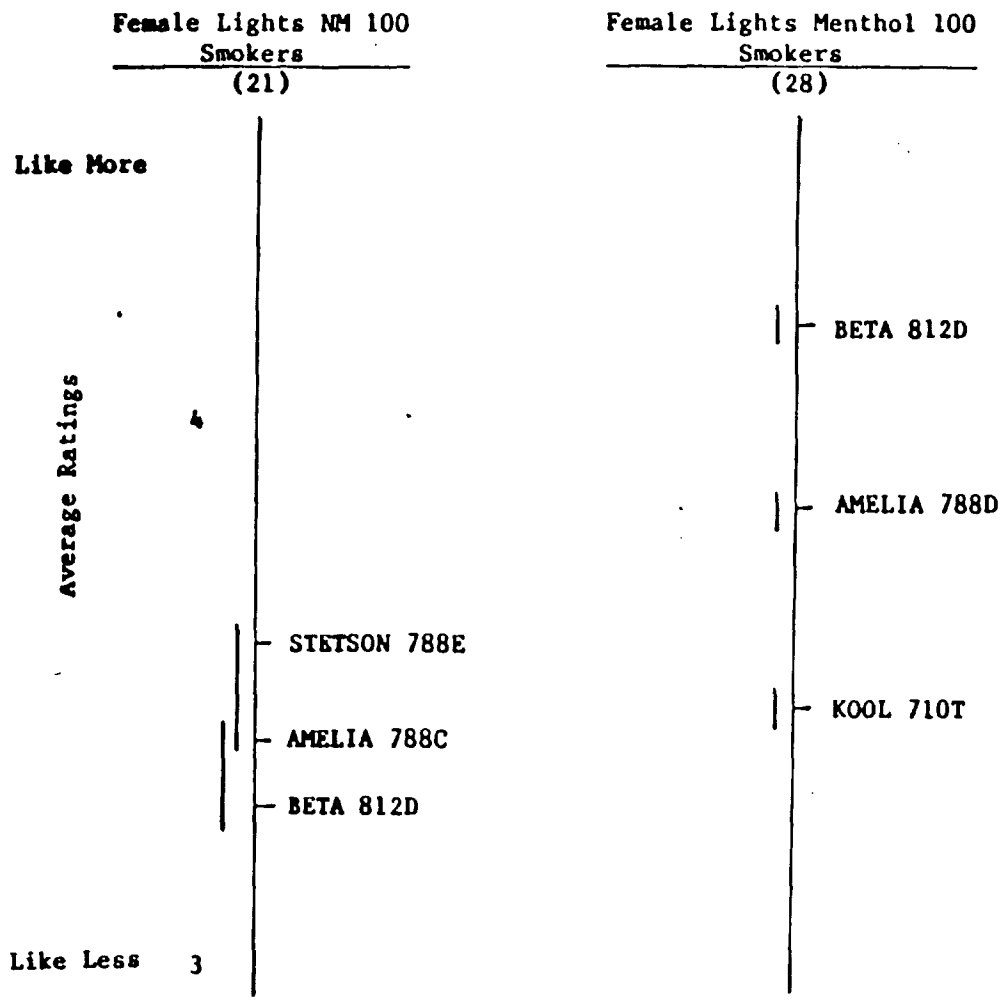
DUPONT ACCEPTABILITY RESULTS OF VISA NM AND MENTHOL SAMPLES
(Six-Point Scale)

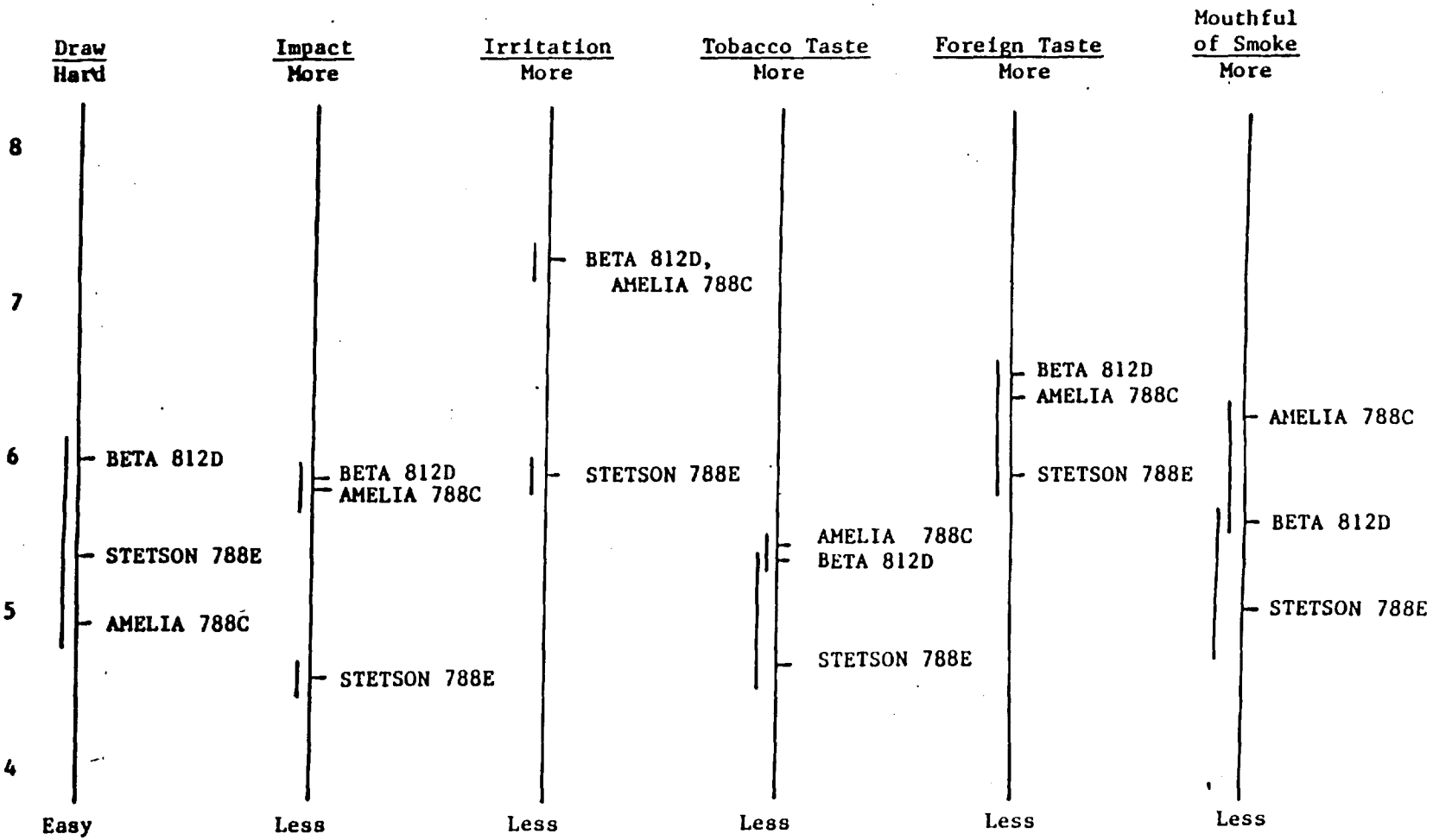


Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

B&W v P.M.
CAN 89-470-L-B
BWH6-07
PRIVATE & CONFIDENTIAL
170321188

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRIBUTE RESULTS OF VISA NM SAMPLES
(Nine-Point Scale)



Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

B&W v P.M.
CAN 89-470-L-B

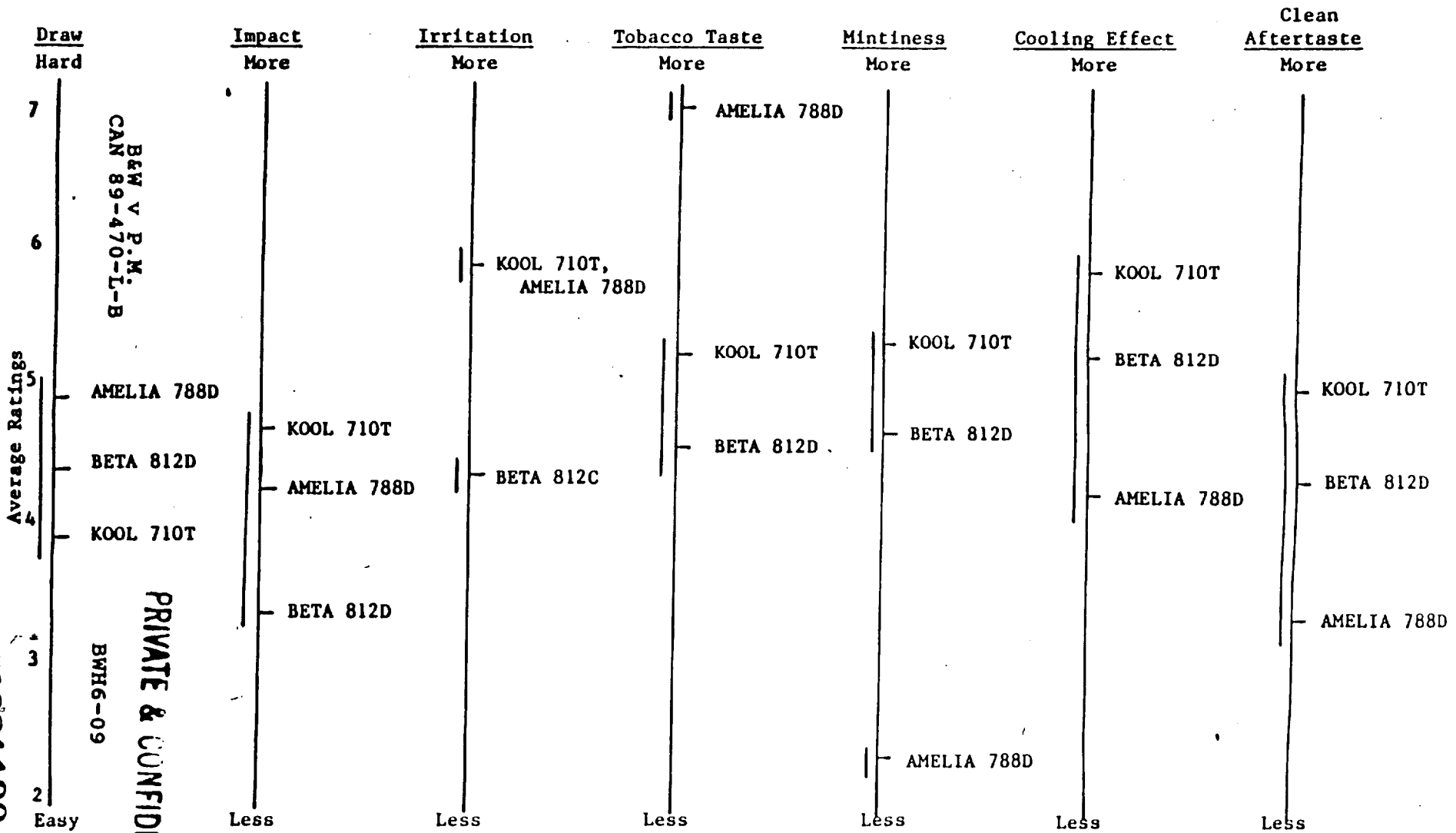
BWH6-08

PRIVATE & CONFIDENTIAL

1703211189

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRIBUTE RESULTS C. ..SA MENTHOL SAMPLES
(Nine-Point ...le)



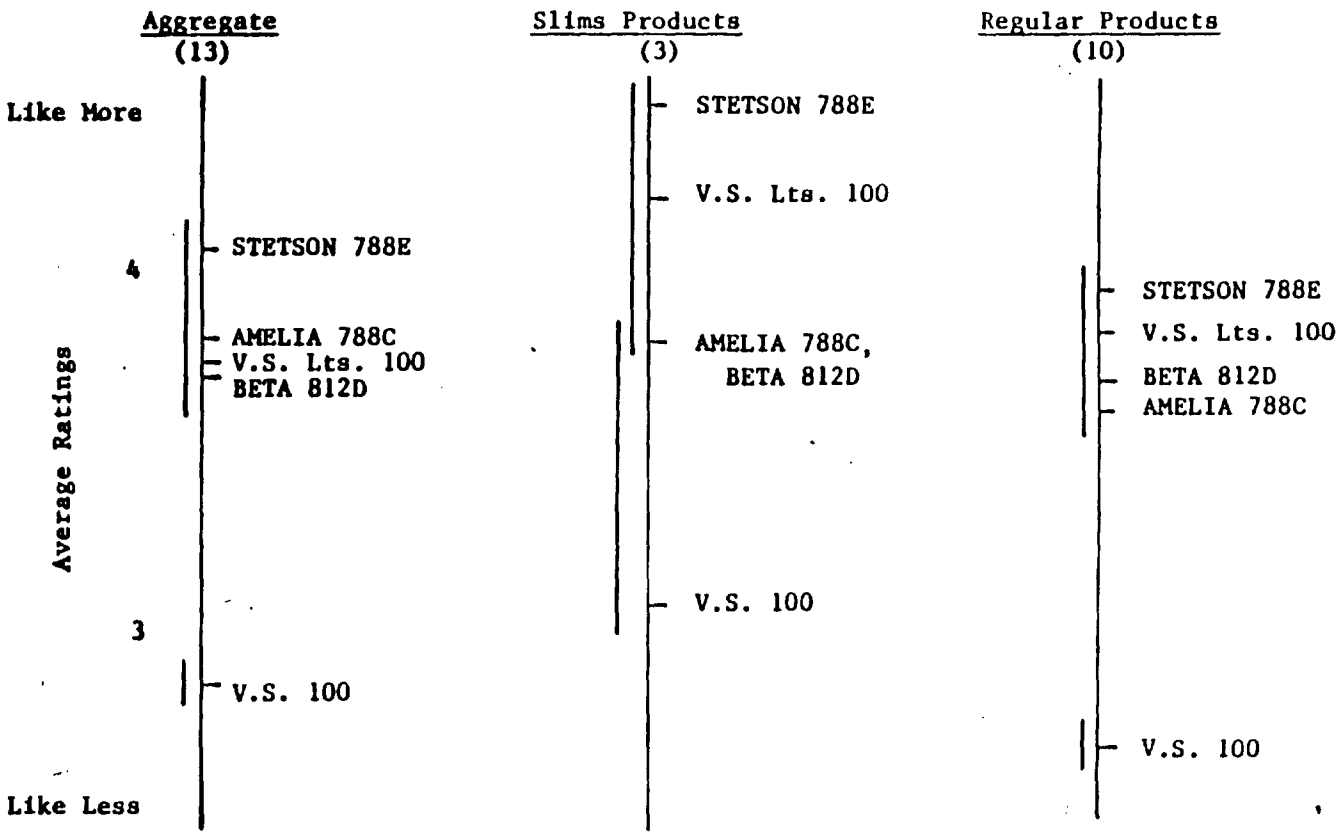
Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

B&W v P.M.
CAN 89-470-L-B
BWH6-09
PRIVATE & CONFIDENTIAL
1703211 90

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ACCEPTABILITY OF VISA NM SAMPLES
(Six-Point Scale)

FEMALE SMOKERS OF LIGHTS 100



Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

B&W v P.M.
CAN 89-470-L-B

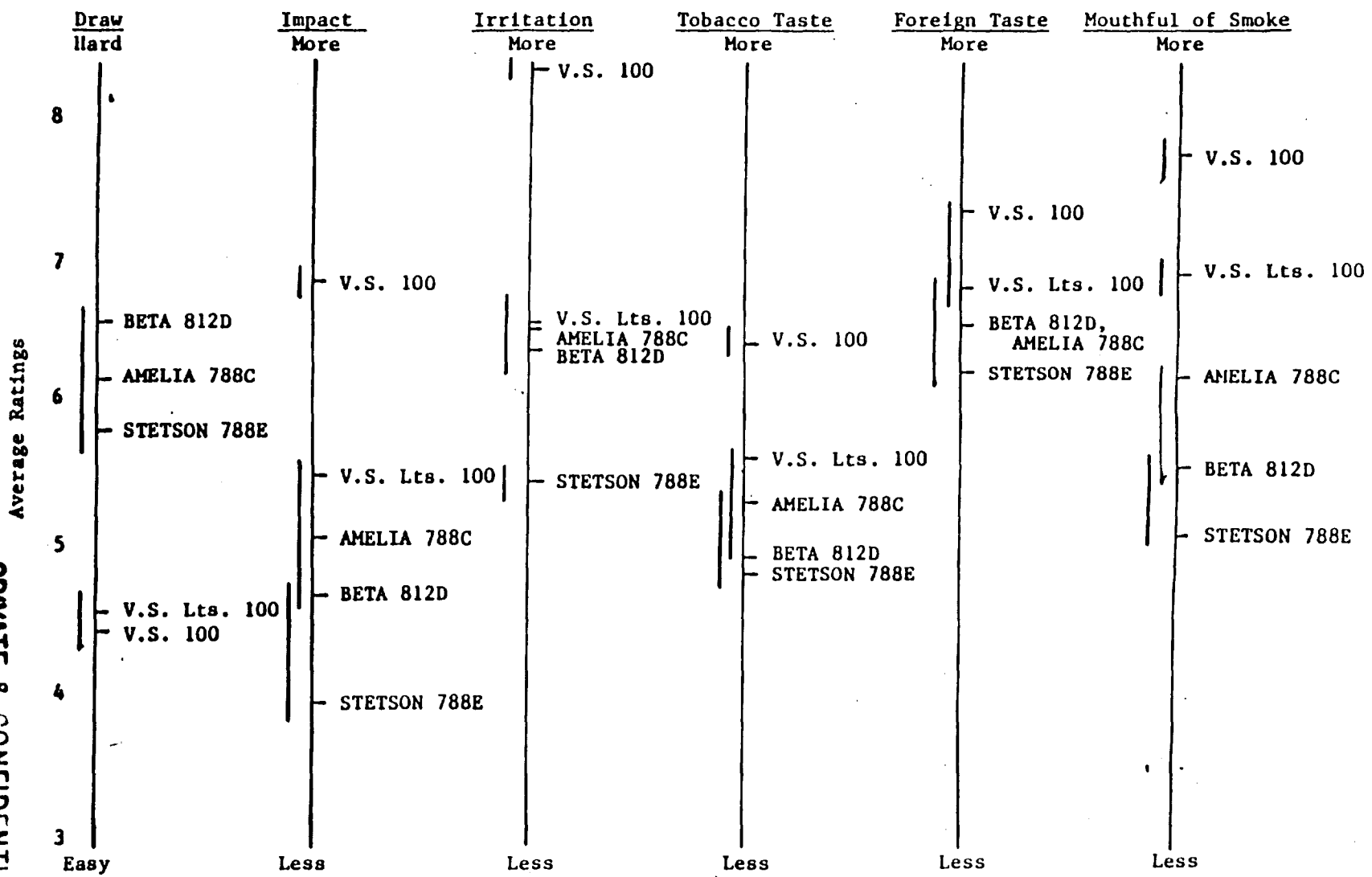
BWH6-10

PRIVATE & CONFIDENTIAL

170321191

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRIBUTE RESULTS OF VISA [illegible] AMPLES
(Nine-Point Scale)



Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

B&W V P.M.
CAN 89-470-L-B

BWH6-11

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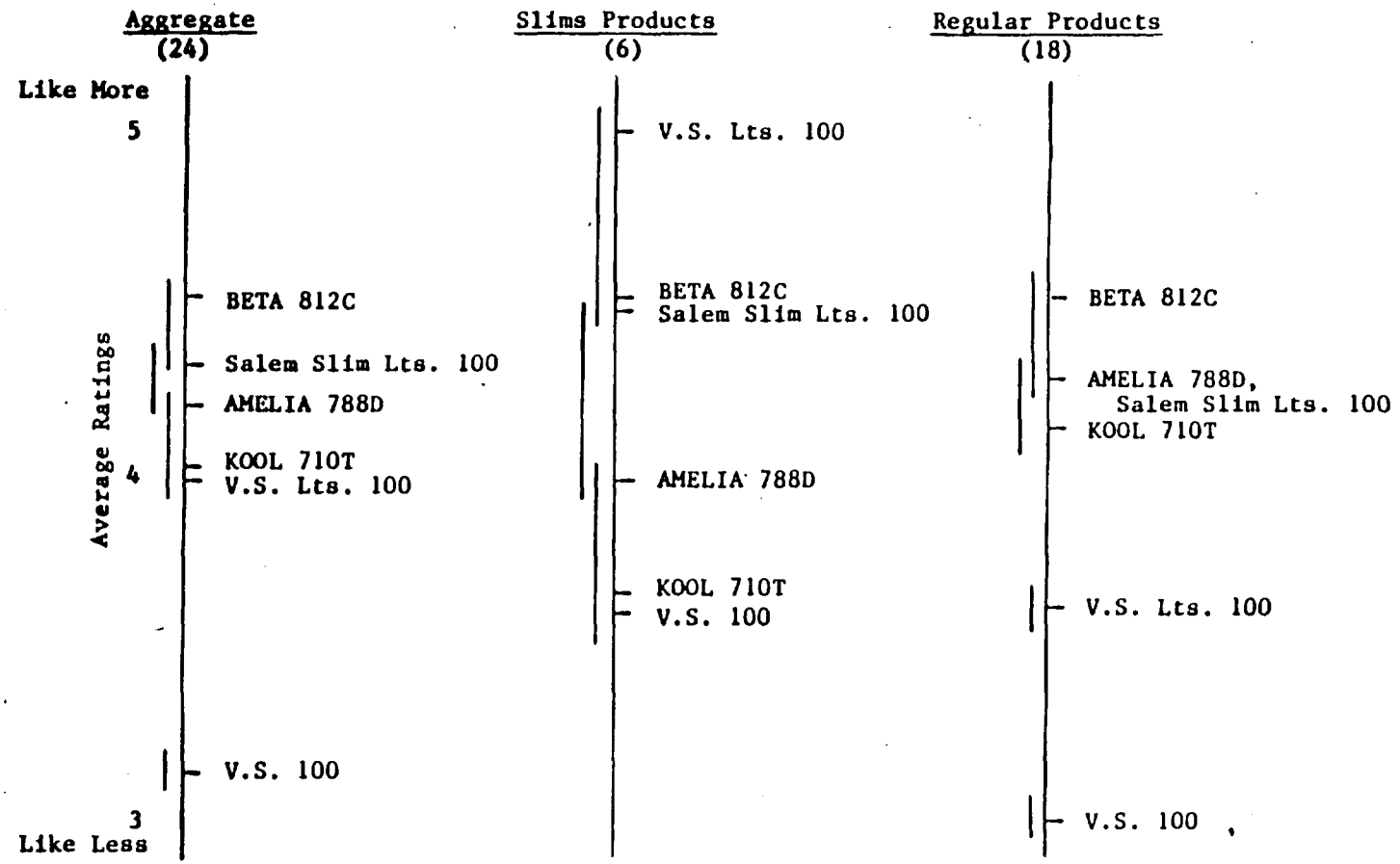
1703211192

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ACCEPTABILITY OF VISA MENTHOL SAMPLES
(Six-Point Scale)

FEMALE SMOKERS OF LIGHTS 100

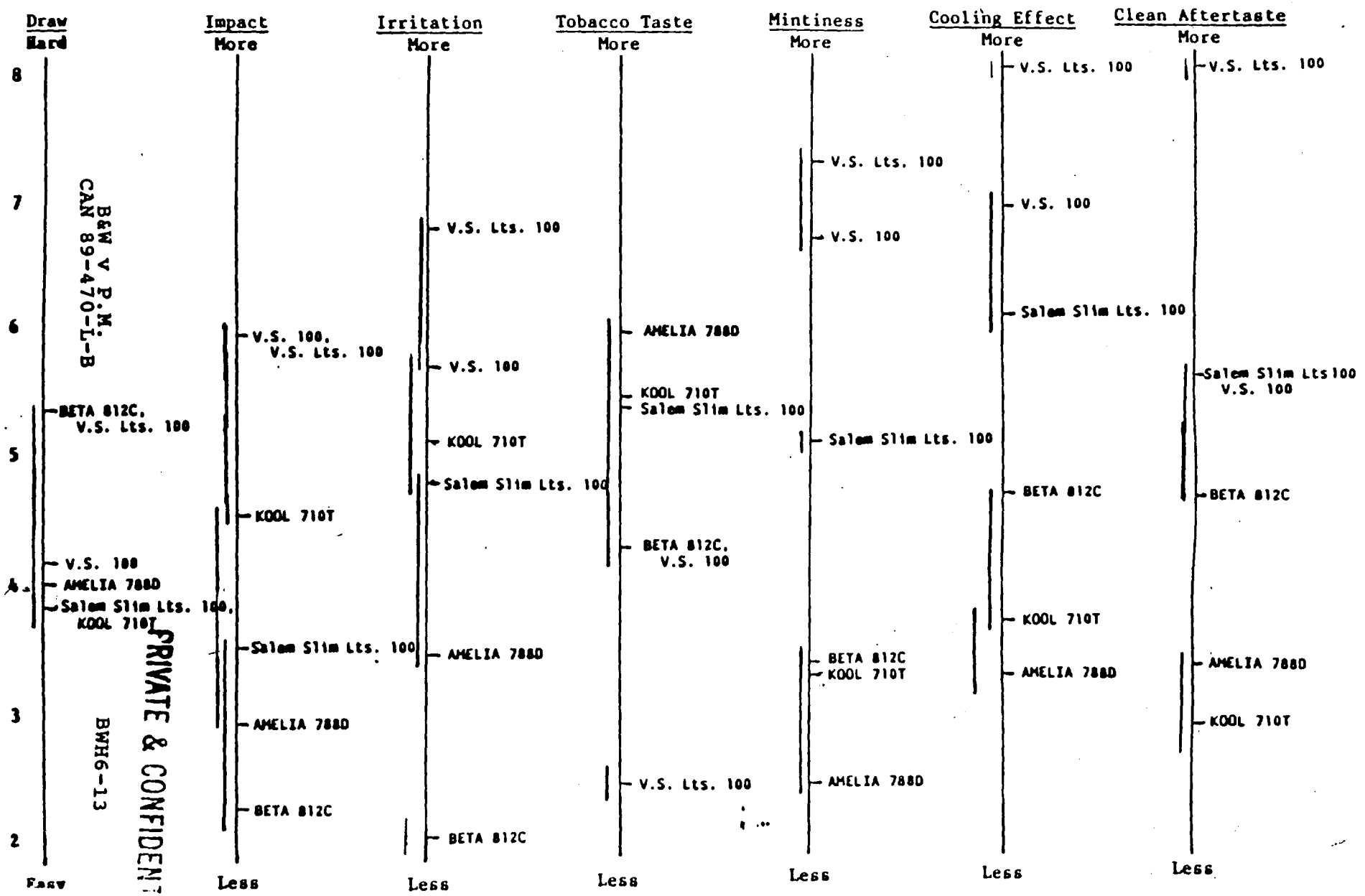


Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

B&W v P.M.
CAN 89-470-L-B
BWH6-12
PRIVATE & CONFIDENTIAL
170321193

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRI[illegible] RESULTS OF [illegible]SA MENTHOL SAM[illegible]S
(Nine-Point Scale)



1703211194

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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

TO: Mr. L. O. Mosser

CC: Mr. G. D. Raphael
Mr. R. D. Sharp
Mr. A. McMurtrie
Dr. W. H. Deines
Mr. R. F. Brotzge
Mr. L. K. Templeton

FROM: Ms. B. A. Reasor

DATE: June 10, 1986

SUBJECT: DUPONT RESULTS FOR VISA NONMENTHOL SAMPLES - ROUND #6/278

Attached are acceptability and attribute results for VISA Nonmenthol samples - Round #6.

The following products were evaluated:

278314 AMELIA 788F/XFF-421
278315 STETSON 788H/XFF-357
278316 STETSON 788H/XFF-420
278317 AMELIA with 7.74% CPCL-9
278318 AMELIA with 16.74% CPCL-9
Virginia Slims Lights-NM

CONFIDENTIAL

Monadic attribute ratings were made by LD-NM Prism panelists, while acceptability ratings were made by 32 female lights 100 and slim 100 nonmenthol smokers. A breakdown of the smokers is listed below.

Brand	Number of Smokers
B&H Lts 100	1
Eve 100	1
Marlboro Lts 100	20
More 120	2
Satin 100	2
Silva Thins 100	1
Virginia Slims 100	1
Virginia Slims Lts 100	2
Virginia Slims Lts 95	2

DEFENDANT'S EXHIBIT 385 dm 5-29-91

Dupont study I.D.s were 3HC1 and 4HC1.

Barbara

B. A. R.

BAR/vr

1545j
Attachments

B&W v P.M.
CAN 89-470-L-B

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BWH9-176
170321195

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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

CONFIDENTIAL

TO: Mr. L. K. Templeton

CC: Mr. G. D. Raphael
Mr. R. D. Sharp
Mr. A. McMurtrie
Dr. W. H. Deines
Mr. R. F. Brotzge
Mr. L. O. Mosser

FROM: Ms. B. A. Reasor

DATE: June 10, 1986

SUBJECT: DUPONT RESULTS FOR VISA MENTHOL SAMPLES - ROUND #6/278

Attached are acceptability and attribute results for VISA Menthol samples - Round #6.

The following menthol products were evaluated:

278308	Blend 812I/0.7 menthol/64% vent/XFF-404
278309	Same as 278308 except 1.0 menthol/60% vent
278310	Same as 278309 except 51% vent
278311	Same as 278310 except XFF-418/48% vent
278312	Same as 278310 except XFF-419/48% vent
Virginia Slims Lts-M	

Monadic attribute ratings were made by LD-M Prism panelists, while 34 female lights 100 and slim lights 100 menthol smokers made the acceptability ratings. A breakdown of the smokers is listed below.

Brand	Number of Smokers
B&H Lts 100	1
Eve Lts 120	1
Salem Lts 100	24
Salem Slim Lts 120	2
Virginia Slims Lts 100	3
Virginia Slims Lts 95	3

Dupont study I.D.s were 5HCl and 6HCl.

Barbara

B. A. R.

BAR/vr

1542j

Attachments

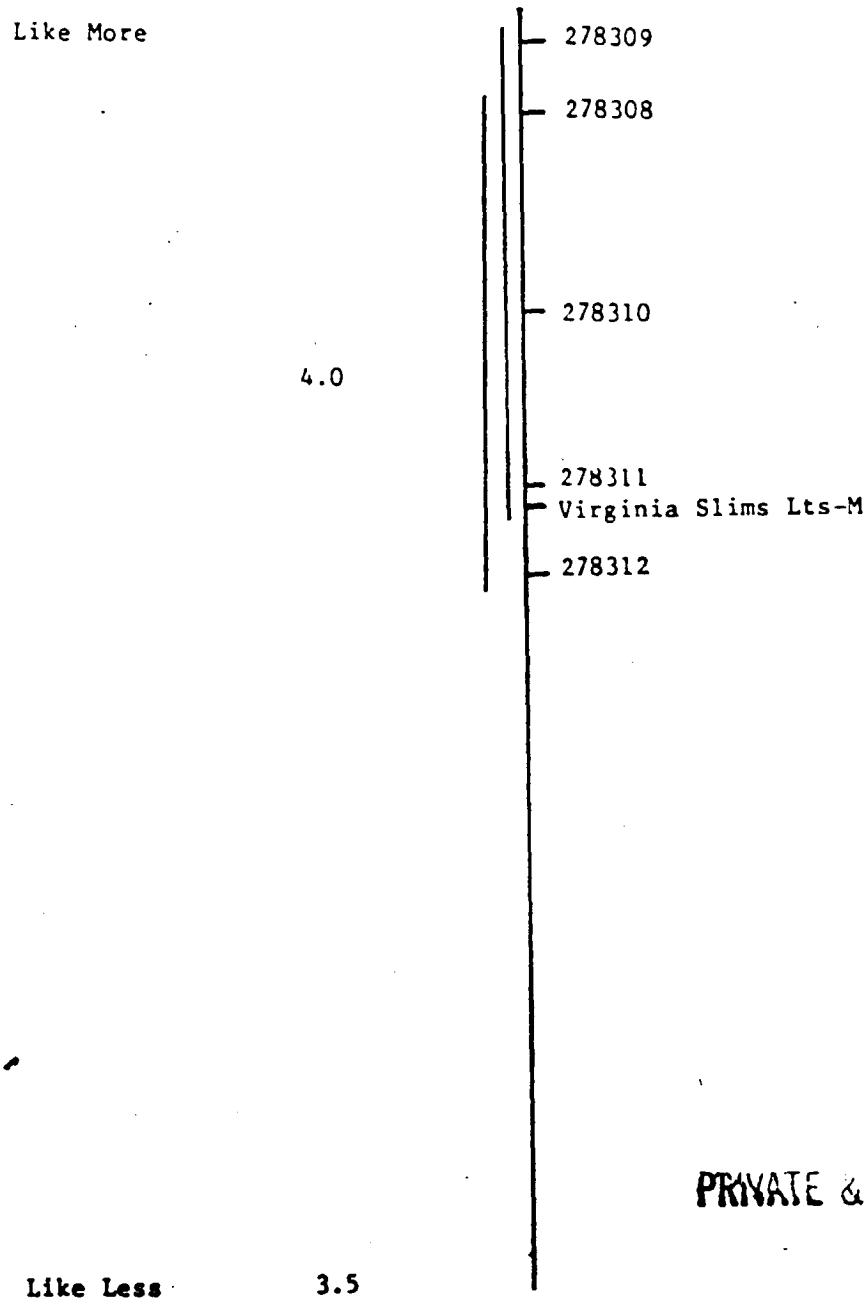
B&W v P.M.
CAN 89-470-L-B

BWH9-177

170321196

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ACCEPTABILITY RESULTS FOR VISA MENTHOL - ROUND #6*
(Six-Point Scale)



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B&W v P.M.
CAN 89-470-L-B

BWH9-178

*34 Female lights 100 and slim lights 100 menthol smokers

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

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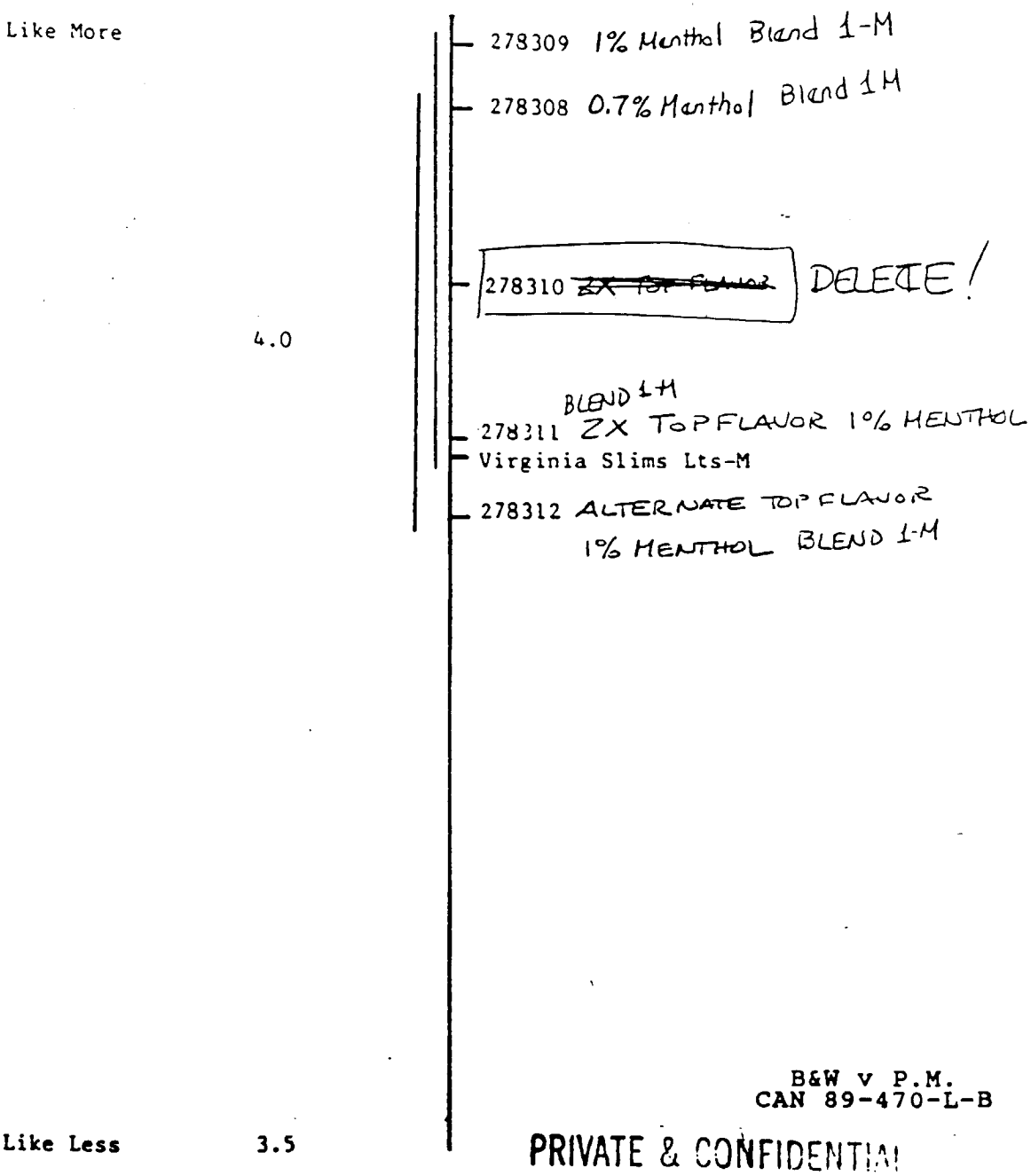
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ACCEPTABILITY RESULTS FOR VISA MENTHOL - ROUND #6*
(Six-Point Scale)



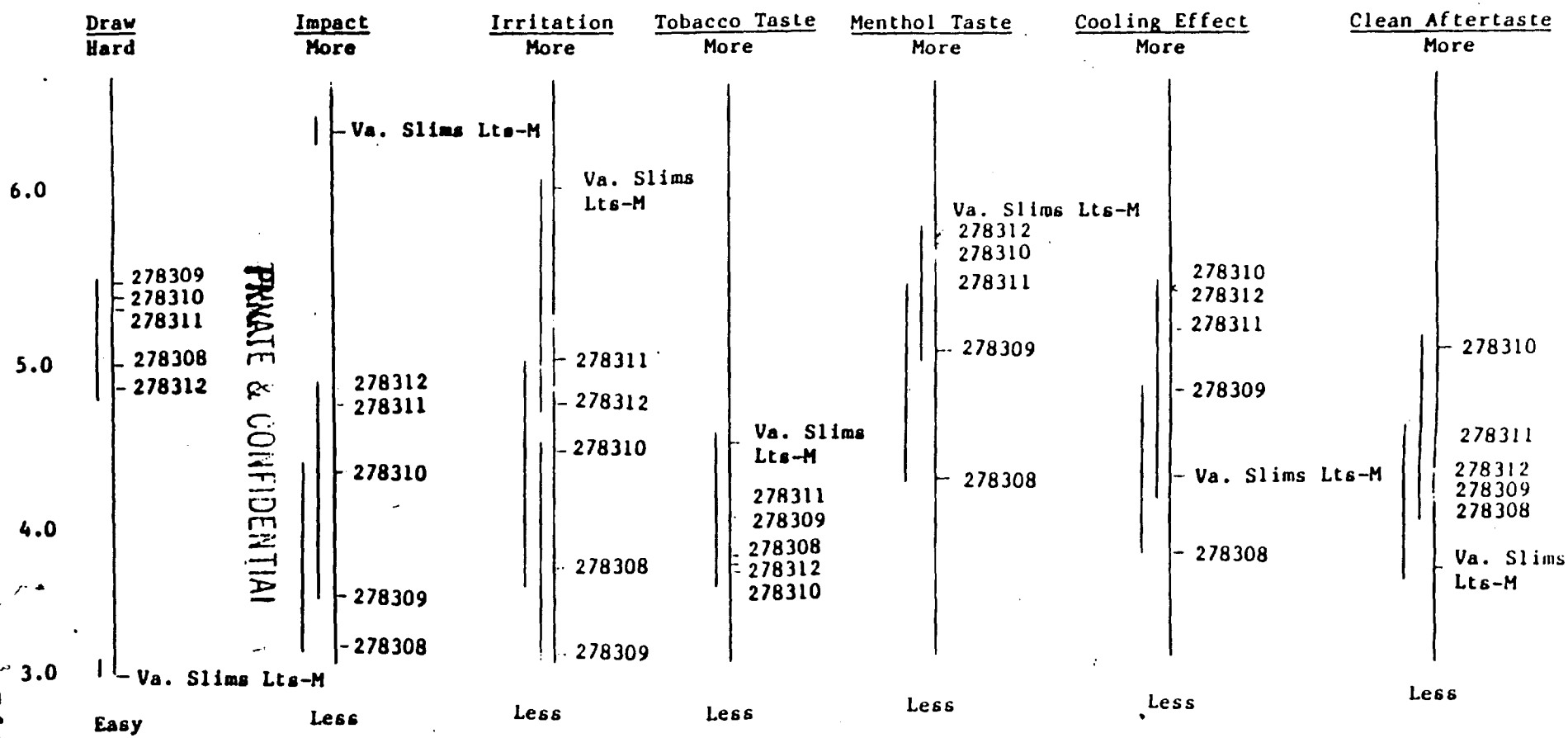
*34 Female lights 100 and slim lights 100 menthol smokers BWH9-179

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

170321198

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRIBUTE RESULTS FOR VISA MENTHOL SAMPLES - ROUND #6*
(Nine-Point Scale)



PRIVATE & CONFIDENTIAL

B&W v P.M.
CAN 89-470-L-B

*6 LD-M Prism female panelists.

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

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BWH9-180

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DUPONT ATTRIBUTE RESULTS FOR VISA MENTHOL SAMPLES - ROUND #6*
(Nine-Point Scale)

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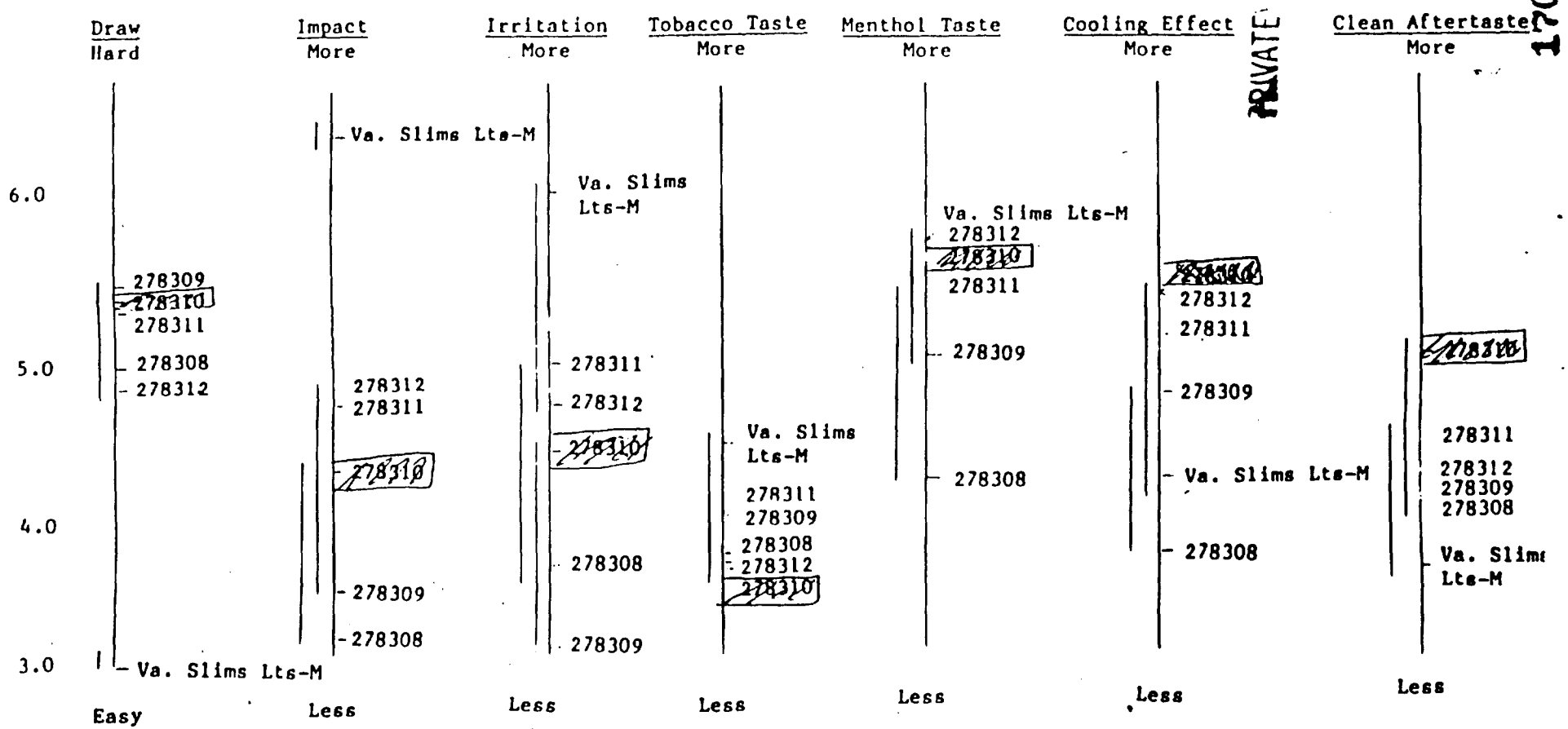
B&W v P.M.
CAN 89-470-L-B
BWH9-181
170321200

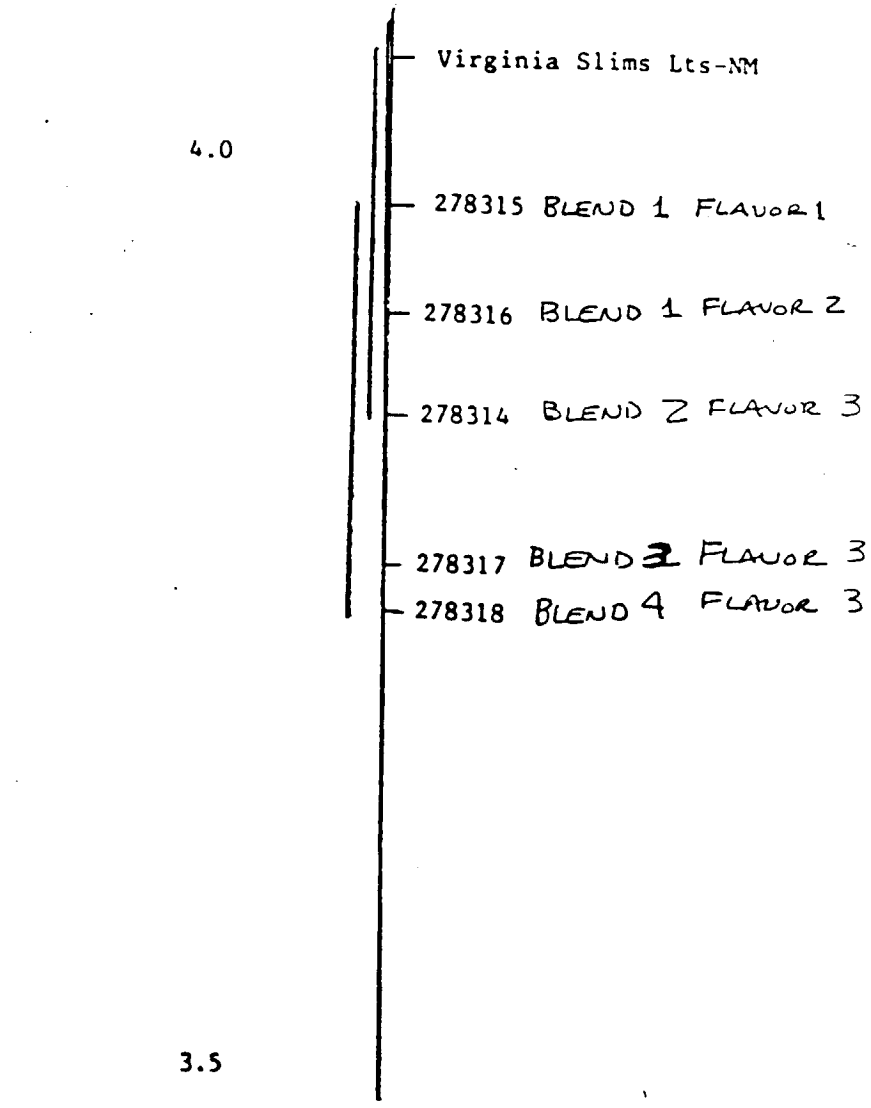


*6 LD-M Prism female panelists.

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ACCEPTABILITY RESULTS FOR VISA NONMENTHOL - ROUND #6*
(Six-Point Scale)



PRIVATE & CONFIDENTIAL

B&W v P.M.
CAN 89-470-L-B

*32 Female Lights 100 and Slim Lights 100 Nonmenthol smokers.

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

BWH9-182

170321201

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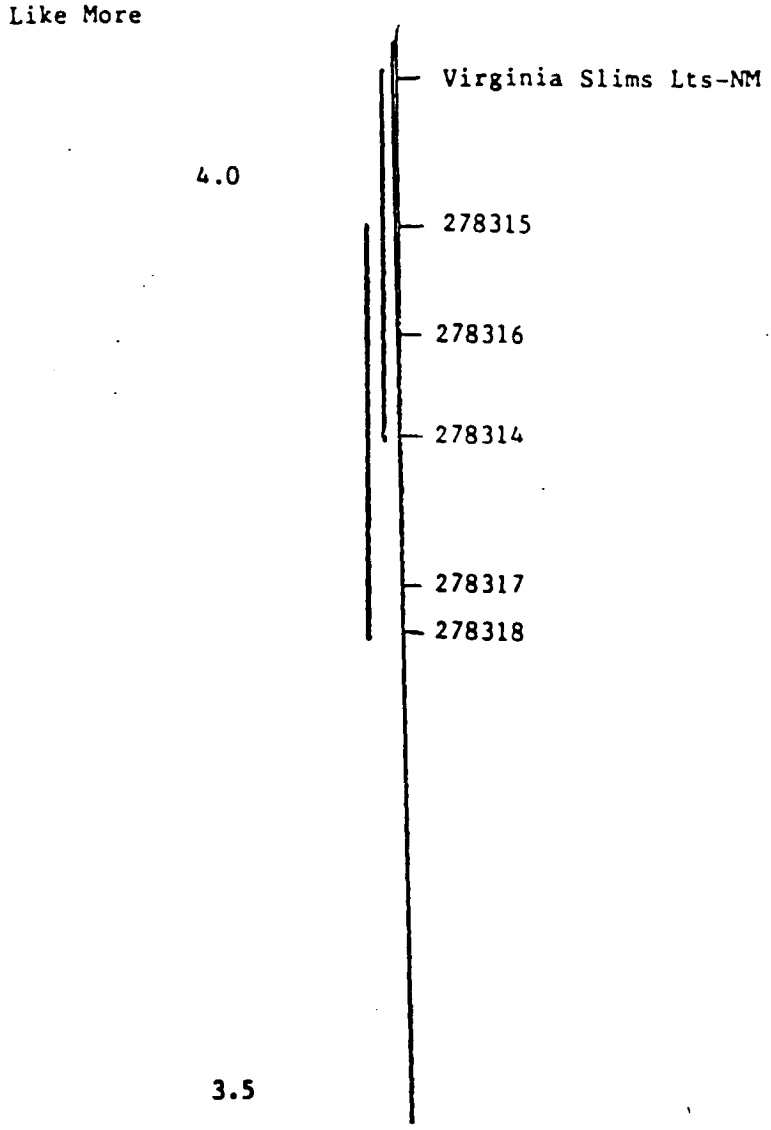
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ACCEPTABILITY RESULTS FOR VISA NONMENTHOL - ROUND #6*
(Six-Point Scale)



PRIVATE & CONFIDENTIAL

B&W v P.M.
CAN 89-470-L-B

*32 Female Lights 100 and Slim Lights 100 Nonmenthol smokers.

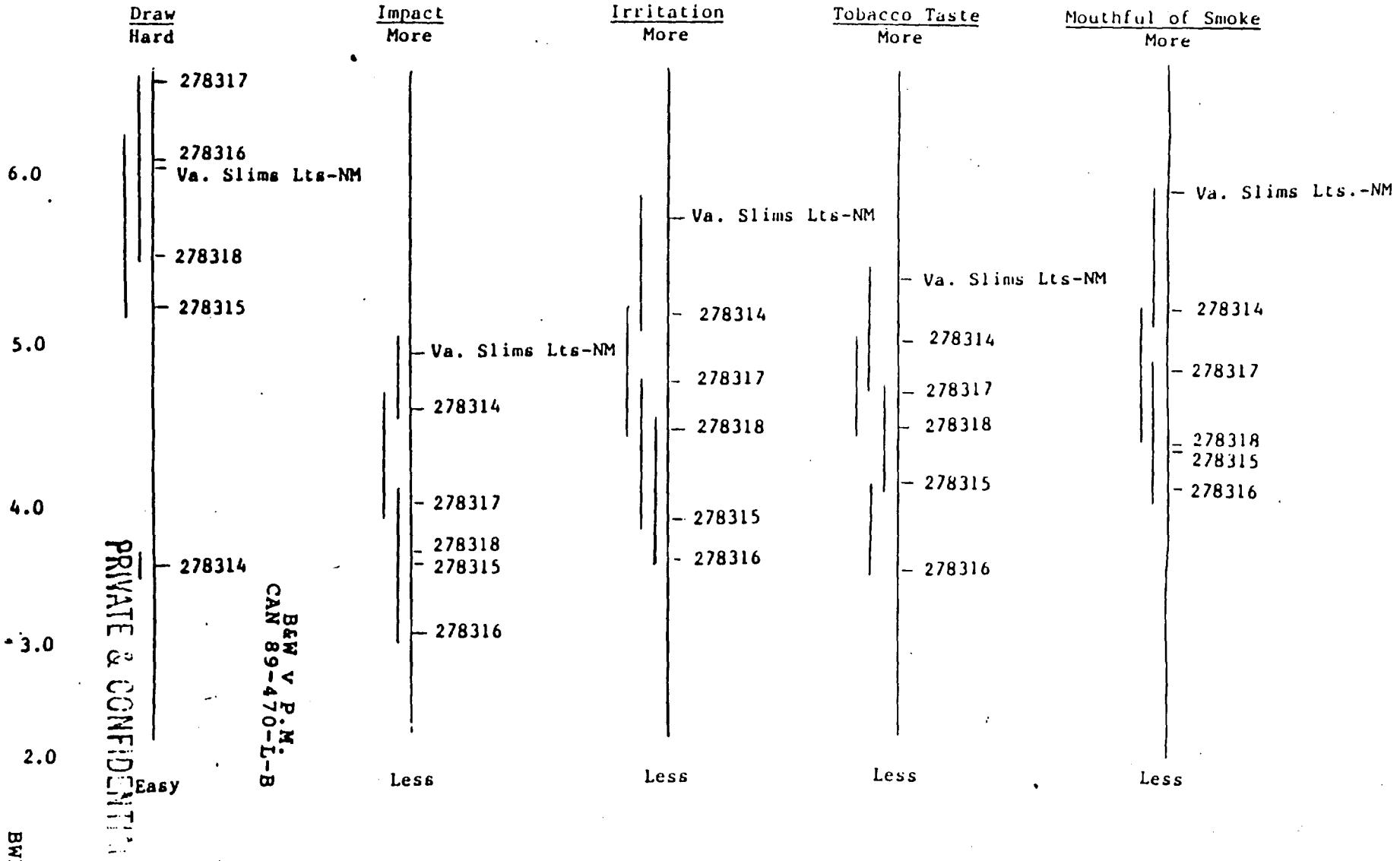
Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

BWH9-183

170321202

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRIBUTE RESULTS FOR VISA NON[illegible]HOL SAMPLES - ROUND #6*
(Nine-Point Scale)



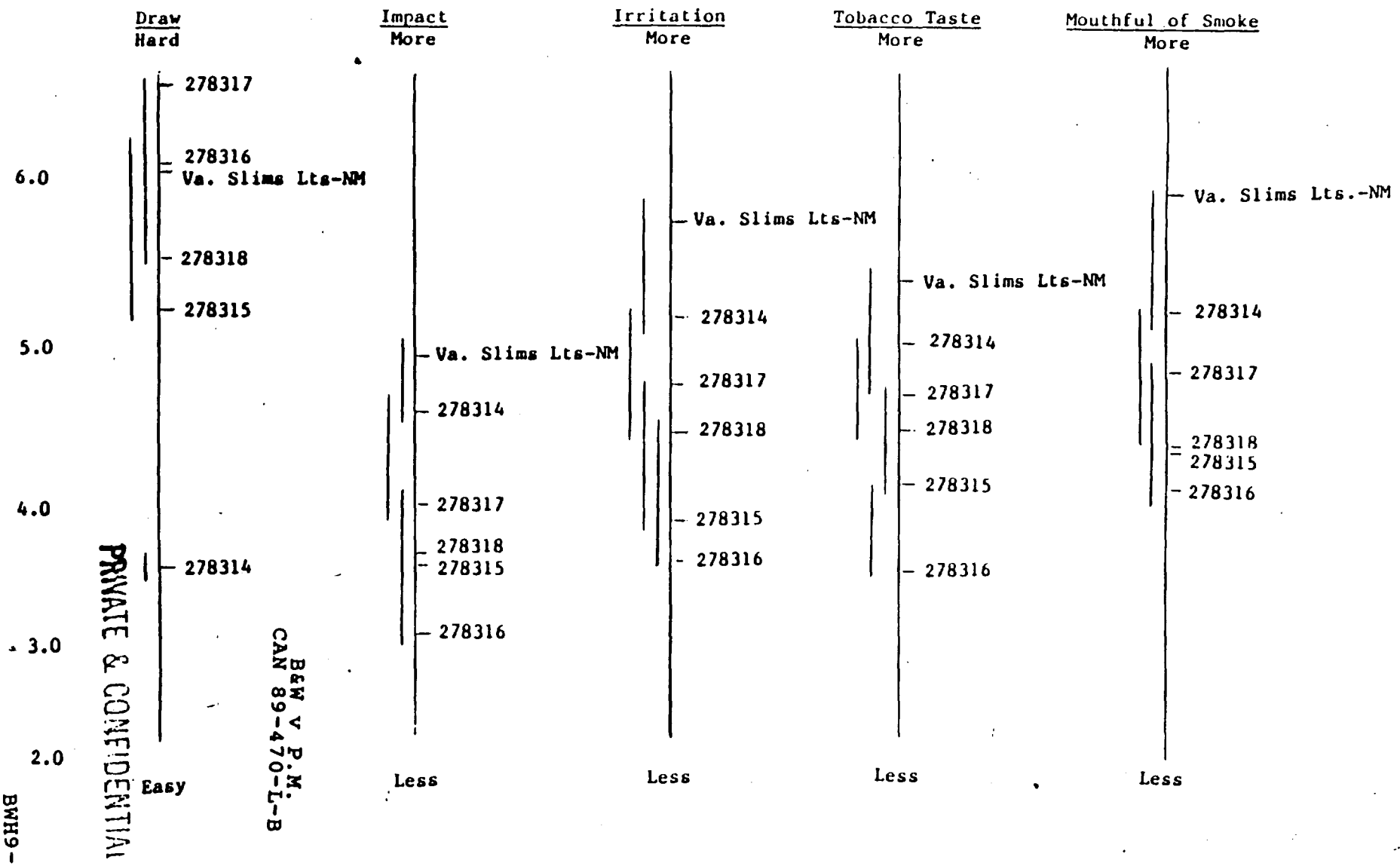
*6 LD-NM Prism female panelists.

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

PRIVATE & CONFIDENTIAL
B&W v P.M.
CAN 89-470-L-B
1703212O3
BWH9-184

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

DUPONT ATTRIBUTE RESULTS FOR VISA NONMENTHOL SAMPLES - ROUND #6*
(Nine-Point Scale)



*6 LD-NM Prism female panelists.

Products not connected by a "side bar" differ from each other at ≥ 95% C.L.

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B&W v P.M.
CAN 89-470-L-B
1703212O4
BWH9-185

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/thhl0001

BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

TO: Mr. G. D. Raphael

CC: Ms. B. L. McCafferty
Mr. R. D. Sharp
Ms. N. E. Steinschulte
Ms. K. J. Brotzge
Mr. M. L. Reynolds
Mr. H. C. Woertz
Mr. D. L. Scholten

FROM: Mr. A. McMurtrie

DATE: May 30, 1986

SUBJECT: VISA CONSUMER RESEARCH REQUEST/278

Purpose

To request that two nonmenthol VISA and two menthol VISA candidates be evaluated among the VISA target audience to determine the better product of each style to enter into test market.

Background

To date, comparisons of VISA products among competitive smokers have been done only in Dupont testing among small numbers of target consumers. Dupont testing of five each menthol and nonmenthol prototypes and Virginia Slims Lights is in progress. These products are all based on our previously best performing candidates, which, historically, have shown little acceptability differentiation with the small Dupont panel. Thus a consumer test to determine the best product of each style to carry forth into test market is warranted.

The two best products for each style will be determined from the Dupont results expected on 6-12. Standard sequential monadic tests are proposed to a) select the better of two menthol and two nonmenthol candidates, and b) to obtain information on the acclimation to VISA in everyday use. This latter information will come from supplementary questions after the second week, and from one-on-one interviews with some respondents.

A direct test versus Virginia Slims is not recommended. Likeability scores from the head-on VISA tests should give a good indication of the overall product acceptance.

DEFENDANT'S EXHIBIT 386 dm 5-29-91

B&W v P.M.
CAN 89-470-L-B

BWH9-51

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Research Objective

The purpose of this research is to measure the reactions to VISA Candidates "A" and "B" (both menthol and nonmenthol) among female smokers of Slim Lights, and Lights 100 and 120 female-positioned brands which are anticipated to provide inflows to VISA.

Hypothesis

For each style (menthol and nonmenthol), one candidate will be superior to the other based on preference, likeability, or key attribute ratings.

Management Decision

If the hypothesis is proved, the superior candidate for each style will be adopted for test market, contingent upon review of the subsequent acclimation and interview findings. If neither product is judged superior to the other, but both are found acceptable for test market adoption, the product choice will be made internally.

Timing

Contingent upon material acquisition, Development Center sample manufacture should be complete by July 3, and ready for shipment to the field July 21 week. Results are expected September 8.

A. M.

AM/vr

1518j

B&W v P.M.
CAN 89-470-L-B

PRIVATE & CONFIDENTIAL

BWH9-52

170321206

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Product Descp. f...

BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

Never done!

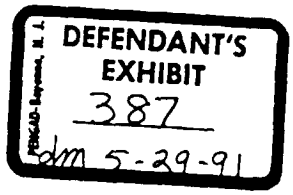
TO: Mr. G. D. Raphael

CC: Ms. B. L. McCafferty
Mr. R. D. Sharp
Ms. N. E. Steinschulte
Ms. K. J. Brotzge
Mr. J. F. Wilhelm
Mr. M. L. Reynolds
Mr. H. C. Woertz
Mr. A. McMurtrie
Mr. D. L. Scholten

FROM: Mr. L. O. Mosser

DATE: June 9, 1986

SUBJECT: VISA NONMENTHOL CPT PROPOSAL/278



Purpose

To request that two nonmenthol VISA candidates (A and B) be evaluated among the VISA target audience to determine the better product for test market introduction.

Background

To date, comparisons of VISA products among competitive smokers have been done only in Dupont testing among small numbers of target consumers. Dupont testing of five nonmenthol candidates and Virginia Slims Lights is complete. These products are all based on our previously best performing candidates, which, historically, have shown little differentiation in acceptability with the small Dupont panel. Thus, a consumer test to determine the best product to carry forth into test market is warranted.

Current Dupont results show two candidates that are equally acceptable to Virginia Slims Lights but differ significantly in attribute ratings. Candidate "A" has attribute scores in impact, irritation, tobacco taste, and mouthful of smoke that are statistically equal to Virginia Slims Lights. Candidate "B" scores significantly less in these attributes than Virginia Slims Lights and Candidate "A."

A direct test of these products versus competition is not recommended due to the extreme size differences.

B&W v P.M.
CAN 89-470-L-B

BWH28-72

Research Objective

The purpose of this research is to measure the reactions to VISA Candidates "A" and "B" among a representative sample of female smokers of Lights 100/120 products. This should include B&H Lights 100 and Satin 100.

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170321207

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Hypothesis

One candidate will be superior to the other based on preference and/or likeability.

Management Decision

If the hypothesis is proved, the superior candidate will be adopted for test market.

Timing

Contingent upon material acquisition, Development Center sample manufacture should be complete by July 3, and ready for shipment to the field July 21 week. Results are expected September 8.

LOM

L. O. M.

LOM/vr

1547j

B&W v P.M.
CAN 89-470-L-B

BWH28-73

CONFIDENTIAL

170321208

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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

TO: Mr. D. L. Scholten (2)

CC: Mr. H. C. Woertz
Mr. A. McMurtrie
Mr. B. A. Bandy

FROM: Mr. L. O. Mosser

DATE: June 9, 1986

SUBJECT: VISA NONMENTHOL CPT CANDIDATES "A" AND "B"/278

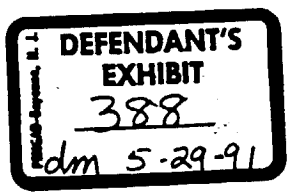
Attached are the specifications for VISA Nonmenthol CPT Candidates "A" and "B."

L. O. M.

LOM/vr

1544j

Attachment



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B&W v P.M.
CAN 89-470-L-B

BWH103-213

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DEVELOPMENT CENTER PRIMARY PROCESSING REPORT

FOR OPERATION NUMBER _____ DESCRIPTION VISA NM CPT Candidates

BLEND NUMBER XLF-788F DATE DRIED _____

FLUE-CURED CASING XCF-972 % OF TARGET APPLIED _____

2ND FLUE-CURED CASING -- % OF TARGET APPLIED _____

BURLEY CASING XCF-1124 % OF TARGET APPLIED _____

BURLEY TOP DRESSING XCF-1394 % OF TARGET APPLIED _____

2ND BURLEY TOP DRESSING -- % OF TARGET APPLIED _____

LOCATION	% MOISTURE TARGET	% MOISTURE ACTUAL
FLUE-CURED EXIT CONDITIONING	15	
FLUE-CURED EXIT CASING	21	
BURLEY EXIT CONDITIONING	15	
BURLEY EXIT CASING	30	
BURLEY-COOLING SECTION		
AVERAGE	6	
% RSD	< 65	
BURLEY EXIT REDRYER	16	
BURLEY EXIT TOP DRESSING	21	
EXIT CUTTER	21	
IN CIGARETTE _____ _____ 14.0		
EXIT DRYER _____ _____ 13.0		

% HUMECTANTS (EX. DRYER)

	PROPYLENE GLYCOL	GLYCERIN
THEORETICAL	1.6	2.1
ACTUAL		
% OF THEORETICAL		

APPROVED: _____ COMMENTS: _____

DATE: _____ _____

B&W v P.M.
CAN 89-470-L-B

CC: B. A. Bandy, P. A. Dearing, _____
H. C. Garrett

CONFIDENTIAL

BWH103-214

170321210

http://legacy.library.ucsf.edu/tid/ouq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/thhl0001

0832K

DEVELOPMENT CENTER PRIMARY PROCESSING REPORT

FOR OPERATION NUMBER _____ DESCRIPTION VISA NM CPT Candidates

BLEND NUMBER XLF-788H DATE DRIED _____

FLUE-CURED CASING XCF-1395 % OF TARGET APPLIED _____

2ND FLUE-CURED CASING -- % OF TARGET APPLIED _____

BURLEY CASING XCF-1107 % OF TARGET APPLIED _____

BURLEY TOP DRESSING XCF-1396 % OF TARGET APPLIED _____

2ND BURLEY TOP DRESSING -- % OF TARGET APPLIED _____

LOCATION	% MOISTURE TARGET	% MOISTURE ACTUAL
FLUE-CURED EXIT CONDITIONING	15	
FLUE-CURED EXIT CASING	21	
BURLEY EXIT CONDITIONING	15	
BURLEY EXIT CASING	30	
BURLEY-COOLING SECTION		
AVERAGE	6	
% RSD	< 65	
BURLEY EXIT REDRYER	16	
BURLEY EXIT TOP DRESSING	21	
EXIT CUTTER	21	
IN CIGARETTE ____ ____ 14.0		
EXIT DRYER ____ ____ 13.0		

% HUMECTANTS (EX. DRYER)

	PROPYLENE GLYCOL	GLYCERIN
THEORETICAL	2.0	3.1
ACTUAL		
% OF THEORETICAL		

APPROVED: _____ COMMENTS: _____

DATE: _____

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CC: B. A. Bandy, P. A. Dearing, _____
H. C. Garrett

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BWH103-215

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~~D. V. Cantrell~~
D. M. Frank
~~P. E. Hartley~~
~~L. K. Templeton~~
~~L. O. Mosser~~
~~L. A. Welker~~
~~R. A. Gentermen~~
A. McMurtrie (LAST)

DEFENDANT'S EXHIBIT
389
dm 5-29-91

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BROWN & WILLIAMSON TOBACCO CORPORATION
Internal Correspondence

TO: H. Woertz, L. K. Templeton, K. A. Flaherty, R. F. Langford, B. D. Dayvault, R. Harris, D. L. Scholten, L. O. Mosser, J. L. Knoop, S. T. Beasley, R. T. Lewis

CC: T. E. Whitehair, N. E. Steinschulte, A. McMurtrie, B. L. McCafferty, K. J. Brotzge, M. L. Reynolds

FROM: R. D. Sharp

DATE: June 30, 1986

RE: Visa Product Sub-Task Force Minutes: June 17, 1986

Purpose

To summarize issues discussed and agreements reached in the 6/17/86 Visa product sub-task force meeting.

Attendees

H. Woertz, R. Harris, B. L. McCafferty, K. J. Brotzge, R. F. Langford, B. D. Dayvault, R. D. Sharp, K. A. Flaherty, J. L. Knoop, D. L. Scholten, L. K. Templeton, M. L. Reynolds, R. T. Lewis

Goals of this Sub-Task Force

The goals of this group are:

1. To identify, define, and develop solutions for and solve issues and problems relating to Visa product;

2. To communicate progress, problems, and issues to the main task force and senior management; and,

3. To improve the communication flow among the various departments working on Visa.

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Action Required	Project Status/Issues

1. Tobacco

The blends under consideration for Visa use no add-ons (e.g., expanded tobacco, stem). The issue of small strip bypass was raised for Macon primarying. Macon uses a #4 mesh in the small strip bypass operation. Installing a plate over the bypass is time consuming and reduces Macon productivity.

The D.C. has primaried Visa tobacco using a #4 mesh small strip bypass on half of it and no bypass on the other half. Cigarettes will then be made from both. If no differences are found (voids, vent variability, machine efficiency), this may indicate that small strip bypass in Macon will not be a problem, as D.C. processing removes about 8% of small strip, while Macon removes about 3%. Results of this testing are due 6/30 week. Testing will also be done in Macon.

Templeton/ Knoop

Other issues on Visa are blend-back of Visa tobacco, especially on menthol, and blend holding. Macon primaries 15,000 pounds of tobacco at a time. Dayvault estimates he will use a few thousand pounds per week. Tests will be conducted to determine how long the blends can be held and to evaluate blend-back of unused tobaccos. Cold storage of mentholated and cut tobaccos is also to be explored as a way of increasing holding time.

Knoop/ Dayvault

2. Flavors/Casings

Other than menthol levels, other flavors and casings are standard.

Macon is running tests to assess their ability to apply the menthol levels needed and to hold the processed tobacco. A 1.0% menthol level is needed for the test market product. Specs have been issued to Macon.

Dayvault

Templeton

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Action Required	Project Status/Issues

3. Testing

A decision has been taken to CPT the two non-menthol candidates out of the D.C. (primary and fabrication). The menthol blend has been selected on judgment (812-I with 55% vent rate and 1.0% menthol).

If the vent variation testing shows a sufficient reduction in percent standard deviation, we should be able to proceed to sample production. If, on judgment, vent variation has not been suficiently reduced, samples from each extreme of the variation and the spec will be tested at DuPont to see if smokers perceive any difference. (Internal expert smoker assessment is that differences are very minor.) If they can, we may then need to do further development to reduce variation. If not, we could move to CPT. Results of the vent variation reduction testing are due early the week of 6/30.

Templeton/ Mosser

If we proceed directly to CPT, sample production should begin the week of 7/7, shipment the week of 7/28, toplines the week of 9/15, and final decision and issuing of specs the week of 9/22.

If we have to go back to DuPont first, that would delay the timing by several weeks.

All materials for CPT are available.

4. Filter Tow

Two suppliers were evaluated: Eastman and Cellanese. Eastman has been selected as the Visa tow supplier. To date, bale-to-bale variability has been acceptable. Variability will continue to be monitored.

Lewis/ Templeton/ Mosser

Filter rod circumference variation to date has been about that of normal filters (.1 or .15).

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Action Required	Project Status/Issues

5. Tipping

Recent tipping has come from Hermatite. Visa tipping decoration cylinders have been standing at Ecusta. To resolve this inconsistency, Ecusta will be asked to supply samples to test against Hermatite's. If they can meet the specs, this gives us two sources of supply.

Langford

Templeton

Langford — Purchasing to confirm that Visa tipping graphic design will clear the ventilation holes.

6. Reclaim

The issue of reclaim on Visa was raised. When the test market was small (<1% CSP), reclaim was not planned. Because of the small quantities and possible problems with the in-pack spacer contaminating reclaim tobacco, it was thought to be just as efficient to scrap the product. Reclaim issues were to be resolved in time for expansion.

Harris/ Radley — Given current plans to go to a larger test market (approximately 2% CSP), the issue of reclaim at Macon will be re-examined. Initial evaluation due in two weeks.

7. Manufacturing

The impact of a larger test market on Macon was discussed. Dayvault estimates Macon production, at least initially, at 340M sticks per (one-shift) day. For a 34MM stick test market, this would require 100 days of manufacture time. Alternatives discussed were:

a. As Macon becomes proficient at running the equipment, add additional shifts, thereby increasing output and reducing total production time.

b. For test market start, we do not necessarily need the entire six-month test quantity. Having 25-35% finished and in the shipping room would probably be sufficient. This may be necessary if testing reveals any problems with cold storing Visa product, so that product shipped later in the test is still fresh.

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Action Required	Project Status/Issues
Sharp	We expect test market approval the week of 6/30. Initial test market quantities will also be circulated 6/30 week. As plans become more definite. a manufacturing schedule to meet test market needs
Dayvault	will be developed.
Dayvault	Since the maker will probably outrun the packer, Macon will need trays and storage for cigarettes. Dayvault will evaluate needs.

The next meeting of the Visa product sub-task force will be held Wednesday, July 2, at 1:30 in the Teleconference Conference Room (2nd floor) at Hill Street.

R. D. S.

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D R A F T

Regarding the latest round of Dupont VISA testing (attached), we have compared the results to those of the previous round (also attached). Our conclusions follow.

Menthol Products

We see essentially no change in results between the two rounds not readily attributable to the increase in sample size. Changes made in the last round to increase menthol-related attributes do indeed show in Prism results, but only slightly. The two products are indistinguishable from each other, superior in acceptability to Virginia Slims Lights 100, and less acceptable than Salem Slim Lights 100.

Nonmenthol Products

The latest Dupont results show the three VISA candidates as indistinguishable from each other in acceptability, and less acceptable than competitives. Based on similar experiences at Dupont where panel size was changed, these new results cannot be considered a significant change from those obtained in the previous round.

Next Steps

The planned EUT testing of our best VISA products is the key to determining the products viability. If a CPT to determine the best candidate to carry forth into EUT testing is necessary, we recommend the CPT be done now, with the products in hand. No means of making significant improvements in smoking quality can be demonstrated near term. We estimate a minimum of two months of additional development would be necessary.

However, we strongly recommend eliminating the CPT, and proceeding directly to an EUT following one additional round of Dupont acceptability testing. Here we will test only the VISA candidates which should avoid the compression caused by the inclusion of "normal" cigarettes, and also as to select the best one. The small differences between existing VISA candidates will not make or break the proposition in the marketplace. What is needed, as soon as possible, is a readout of the acclimation process and product perception with extended use.

A. McMurtrie

AM/vr

1312j

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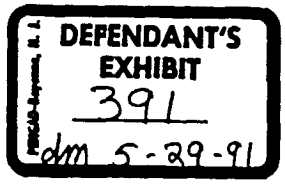
VISA DUPONT SUMMARY

NONMENTHOL

Early Dupont testing showed the nonmenthol Visa products to be too strong for female smokers of Lights 100 products (both slims and conventional configurations). Product development along the lines of improved blends and cigarette design have greatly reduced these strength perceptions, and we are now perceived as lower in these attributes. Acceptability improvement versus competitives has accompanied these changes. Negative draw and mouthfulness has also accompanied these changes. We are now perceived as at parity or lower in acceptability versus competition. There is little or no acceptability differentiation between our best candidates, despite measureable differences in attributes.

MENTHOL

Like the nonmenthol products, Visa menthols were initially perceived as too strong for smokers of Lights 100/120 products (both slim and conventional configurations. Through a similar improvement in blends and design, the strength attributes of our current best menthol candidates are at parity or significantly lower than those of competitives. Our candidates have consistently tested significantly lower in menthol-related attributes. Additional menthol in the most recently tested products made only a marginal increase in these menthol perceptions. Our two best candidates (BETA and AMELIA) have consistently tested as more acceptable than the target product, Virginia Slim Lights 100.



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VISA DUPONT SUMMARY

- NONMENTHOL

Early Dupont testing showed the nonmenthol VISA products to be too strong for female smokers of Lights 100 products (both slims and conventional configurations). Product development along the lines of improved blends and cigarette design have greatly reduced these strength perceptions, and we are now perceived as lower in these attributes. Acceptability improvement versus competitives has accompanied these changes, but we are at weak parity or lower in acceptability versus competition. There is little or no acceptability differentiation between our best candidates, despite measurable differences in attributes.

- MENTHOL

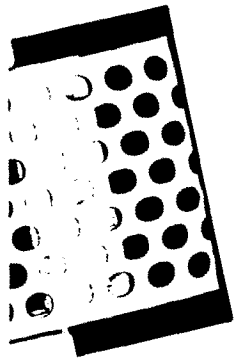
Like the nonmenthol products, VISA menthols were initially perceived as too strong for smokers of Lights 100/120 products (both slim and conventional configurations). Through a similar improvement in blends and design, the strength attributes of our current best menthol candidates are at parity or significantly lower than those of competitives. Our candidates have consistently tested significantly lower in menthol-related attributes. Additional menthol in the most recently tested products made only a marginal increase in these menthol perceptions. Our two best candidates (BETA and AMELIA) have consistently tested as more acceptable than the target product, Virginia Slims Lights 100.

FILTER TOW/FILTER MASS ISSUES

In both the nonmenthol and menthol Phase V acceptability testing, "new" smokers of VISA rate them significantly higher on acceptability than do "experienced" VISA smokers. This finding is of concern as it may indicate a deterioration of perceived acceptability with increased exposure.

McMurtrie

r



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DOCUMENT SUMMARY

Document Id: 1399j
Document Name: WREQ VISA PACK CONCEPT
Operator: 278
Author: TEMPLETON, L. K.

Comments: 86/04/03 I 22 ATTACH

STATISTICS

OPERATION	DATE	TIME	WORKTIME	KEYSTROKES
Created	04/03/86	08:55	:03	712
Last Revised	04/03/86	09:05	:00	2
Last Printed	04/03/86	09:05		
Last Archived	/ /	:	onto Diskette	

Total Pages: 1 Total Worktime: :03
Total Lines: 36 Total Keystrokes: 714

Pages to be printed 0

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RE 4328 (2-81)

SAMPLE SPECIFICATIONS/PILOT PLANT WORK REQUEST

Date Req'd _____ cc:

Approved by _____

(LEVEL 1)

Requesting Dept. Proj. No. 22-278 (1-6) Pilot Plant Proj. No. _____ Date Mfg. 1 1

Requested by L.K. Templeton Designed by L.K. Templeton

Subject/Purpose YISA MENTHOL CONCEPT TEST AND FILTER P2 LEVEL

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Merlin No.	(7-13)		
Current Brand (Specify)	(14-22)		
Cigarette Code	278306 (23-32)	278307	
Analysis Code	Same (33-38)	Same	
Masked Analysis Code	(39-44)		
End Pack Code	(45-49)		
Tobacco Code	(50-57)		
Skip No.			
Skip No.			
Blend (Factory Yes/No)	XLF812I (58-63)	XLF812I	
Casing	[LEVEL 2]		
Burley (Redried Yes/No)	XCF1285 (1-7)	XCF1285	
Flue-Cured	XCF1286 (8-14)	XCF1286	
Top Dressing	XCF1287 (15-21)	XCF1287	
Flavor	XFF404 (22-28)	XFF404	
Operation No. (HHD/LHD)	(29-36)		
Date Cased	(37-44)		
Tracer (Specify)	(45-52)		
Menthol Ret. (%)	1.0% (53-56)	1.0%	
Moisture (%)	14 (57-60)	14	
Filter Rod	[LEVEL 3]		
Material	ES0Y18 (1-6)	ES0Y18	
Length (mm)	108 (7-9)	108	
Circumference (mm)	16.8 (10-14)	16.8	
Pressure Drop (in)	16.0 (15-18)	16.0	
Additive (% – Type)	7% Tilbor (19-30)	9.5% Tilbor	
Plug Wrap	565M1 (31-38)	565M1	
Plug Wrap Perm. (Coresta)	6500 (39-43)	6500	
Anchor Line	Yes (44-46)	Yes	
Tray No.			
Tray No.			
Maker No./Speed (rpm)	(47-53)		
Maker Type	(54-56)		
Adhesive	(60-65)		
Packaging			
Label Type			
Closure			
Overwrap			
Tear Tape			
Carton Type			

Quantity Requested			
Stockroom			
Tech. Dept. (Product)	4trays	2trays	
Marketing Research			
Other Dept.			
Tipping/Filter	[LEVEL 4]		
Supplier – Color	White (1-6)	White	
Length (mm)	32 (7-8)	32	
Perf. Type/Dist. M.E. (mm)	(9-18)		
Permeability (Coresta)	* 3400 (19-22)	3400 *	
Perm.–Act. (Coresta)	(23-26)		
Basis Wt. (gms/m²)	(27-28)		
Bobbin No.	(29-38)		
Filter Length (mm)	27 (39-40)	27	
Pressure Drop (in)	4.0 (41-43)	4.0	
% N.R.E. (Est.)	~23% (44-46)	~23%	
Glue Pattern	Full (46-52)	Full	
Skip Area (12x20, 12x16)	(53-57)		
% Ventilation (Est.)	* 55%	55%	
Mask. Width (mm)/Color	(58-67)		
Cigarette	[LEVEL 5]		
Length (mm)	97 (1-3)	97	
Circumference (mm)	17.0 (4-7)	17.0	
Maker No./Speed (cpm)	(8-14)		
Maker Type	(15-20)		
Tobacco Section			
Length (mm)	70 (21-22)	70	
Tobacco Wt. (mgs)	451 (23-25)	451	
Density (mgs/cc)	280 (26-30)	280	
Est. T.S. Tar (mg/cig)			
Cigarette Paper			
Supplier – Grade	E656 (31-42)	E656	
Permeability (Coresta)	26 (43-45)	26	
Perm. – Act. (Coresta)	(46-48)		
Bobbin No.	(49-58)		
Burn Additive (% – Type)	.3% C.F (59-66)	.3% C.F	
Non-Tobacco Wts.			
Avg. Rod Weight (mg)	(67-70)		
Seam & Paper Wt. (mg)			
Tipping Weight (mg)	(74-76)		
Wt./100 Cigts. (gms)			

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Special Instructions * adjust tipping to achieve vent

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DEVELOPMENT CENTER PRIMARY PROCESSING REPORT

FOR OPERATION NUMBER _____ DESCRIPTION _____

BLEND NUMBER XLF 812I DATE DRIED _____

FLUE-CURED CASING XCF 1286 % OF TARGET APPLIED _____

2ND FLUE-CURED CASING _____ % OF TARGET APPLIED _____

BURLEY CASING XCF 1285 % OF TARGET APPLIED _____

BURLEY TOP DRESSING XCF 1287 % OF TARGET APPLIED _____

2ND BURLEY TOP DRESSING _____ % OF TARGET APPLIED _____

LOCATION	% MOISTURE TARGET	% MOISTURE ACTUAL
FLUE-CURED EXIT CONDITIONING	15	
FLUE-CURED EXIT CASING	21	
BURLEY EXIT CONDITIONING	15	
BURLEY EXIT CASING	30	
BURLEY-COOLING SECTION		
AVERAGE	6	
% RSD	< 65	
BURLEY EXIT REDRYER	16	
BURLEY EXIT TOP DRESSING	21	
EXIT CUTTER	21	
IN CIGARETTE	13.0 / 12.0	13.5 / 12.5
EXIT DRYER		14.0 / 13.0

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% HUMECTANTS (EX. DRYER)

	PROPYLENE GLYCOL	GLYCERIN
THEORETICAL	1.66	1.83
ACTUAL		
% OF THEORETICAL		

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APPROVED: _____ COMMENTS: _____

DATE: _____

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CC: B. A. Bandy, P. A. Dearing.

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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

INTERNAL CORRESPONDENCE

TO: R. H. Honeycutt

CC:
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R. D. Sharp
M. L. Reynolds
P. R. Fisher
A. McMurtrie
C. N. Kounnas
H. C. Woertz, Jr.
D. V. Cantrell
R. T. Lewis
J. E. Hatchell
L. O. Mosser
L. K. Templeton
K. A. Manecke
H. S. Porenski
R. F. Brotzge
P. A. Dearing
H. C. Garrett
R. G. Hawkins
J. R. Myhand
M. A. Hamann
J. N. Jewell
S. J. Koetter
N. Wilson
H. Prizer
L. D. Reed

FROM: D. L. Scholten

DATE: September 8, 1986

SUBJECT: ACCEPTANCE LIMITS FOR VISA PRODUCTION/278

On September 5, 1986, a meeting was attended by Messrs. Sharp, Knoop, McMurtrie, Templeton, and Scholten to finalize acceptance limits for VISA products. These limits were also discussed in Macon with Messrs. Honeycutt and Hamann on September 4. The following summarizes these meetings, and specifies accept/reject criteria.

It should be emphasized that these are acceptance limits, and not control limits. This means that product which satisfies acceptance criteria will be deemed saleable. However, it does not mean that corrections are not required to more closely match specifications. For example, the acceptance limit for vent rate standard deviation is 6% (absolute). If the standard deviation is measured to be 5.2%, the product will be considered saleable. However, efforts should be made to reduce the standard deviation to a lower level (~3 to 4). Likewise, flavor application will be accepted within 5% deviation, but we should be able to control better than this. Jim Hatchell will be working on establishing control limits as running experience is gained with these products.

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PRIMARY

Blend Components - ±10% of target. Since no add-ons are used in VISA, this includes each individual tobacco grade, and EBR.

Casings and Top Dressing Application - ±10% of calculated.

Redryer Cooling Section Moisture - Mean moisture target 6%, tolerance ±3%. Maximum standard deviation 5.85%. Thirty samples to be taken for each operation.

Flavoring Application - ±5% of calculated.

Menthol Content - In-cigarette, 1.00% ±0.05%. Two samples to be taken each hour in Fabrication.

Moisture Content - Target 14.0%. Mean allowable range, 13.5% to 14.9%. Minimum ten samples per shift in Fabrication.

Humectant Level -

Two samples per box produced in primary.

	Glycerine	Propylene Glycol
Menthol	1.8 ± .5	1.7 ± .4
Nonmenthol A	2.1 ± .5	1.6 ± .4
Nonmenthol B	3.1 ± .8	2.0 ± .5

NOTE: Nonmenthol A or B will be chosen prior to production.

FABRICATION

Filter Rod Circumferences - Mean of 16.8 mm, ±0.1 mm.

Filter Rod Pressure Drop - 16.0" H_2O, ±1.0.

Cigarette Ventilation Rate - 55.0%, ±3.0. Maximum standard deviation 6.0.

Cigarette Circumferences - 17.0 mm, ±0.1 mm on mean. S.D. ≤0.1.

Tobacco Weight - Target ±10 mg/cigarette. S.D. ≤ 15.

Cigarette Pressure Drop -

	Menthol	Nonmenthol
Open	6.5 ± 1.0	6.0 ± 1.0
Sealed	14.0 ± 1.0	12.0 ± 1.0

End Stability - <5 mg/cigarette

Coal Retention - ≥95%

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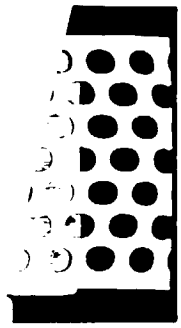
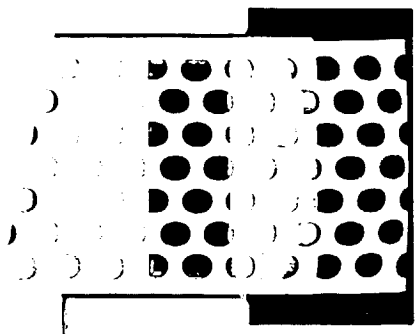
Jack Seal - ≥100 equivalent on B&W tester. This is equivalent to
53 on the Arjay tester.

ll of the above means and standard deviations measured in Fabrication
e to be based on each shift's production. Primary criteria are on a
r operation basis. If you have any questions or comments, please
tact me at 7423.

. S.

fk





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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH, DEVELOPMENT & ENGINEERING

FILE NOTE

TITLE: STATIC BURNRATE OF CAPRI AND OTHER B&W PRODUCTS/278

AUTHOR: L. K. Templeton

DATE: March 3, 1987

CC: T. F. Riehl, A. McMurtrie, D. G. Strubel, J. F. Nall, C. Lamb

A cursory reexamination of CAPRI's static burn rate has been performed using two B&W testing procedures. The two procedures are for determining the rate of weight loss for free burning cigarettes.

Method #1, which is the RATE OF FREE COMBUSTION, measures the free burn time for a set length of tobacco section to the consumed, and the weight of tobacco burned per unit time is calculated. Five replicates for each sample were run for method #1.

Method #2, which is the COMBUSTIBILITY RATE, measures the time it takes four cigarettes to lose 1 gram of weight excluding the weight of the ash. One test was run for each sample.

The two test methods differ insofar as method #1 is an indirect measure of weight loss, and method #2 is a direct measure of weight loss. Method #1 assumes 100% combustion of the ash and gives a higher rate of weight loss. Method #2 retains the weight of the ash and gives a lower rate of weight loss. Differences in test methods, and cigarette to cigarette variations would account for the differences in weight loss rates.

The cigarettes examined by the aforementioned procedures are CAPRI menthol and nonmenthol, KIM menthol and nonmenthol, ELI CUTTER KS and VICEROY LIGHTS 100. Results from the two methods are shown below in Table 1.

TABLE 1

BRAND	RATE OF FREE COMBUSTION (MG/MIN. CALCULATED)	COMBUSTIBILITY RATE (MG/MIN. MEASURED)
CAPRI NM	35.93	35.97
CAPRI M	36.51	33.56
KIM NM	59.16	53.19
KIM M	61.59	60.24
ELI CUTTER KS	63.46	54.15
VICEROY LT 100	67.67	60.98

DEFENDANT'S EXHIBIT 394 dm 5-29-91

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It should be noted that the results in Table 1 are based on fewer than the standard number of cigarettes. Method #1 results are based on five cigarettes instead of ten, and method #2 results is based on four cigarettes instead of ten. If a more precision rate of weight loss number is needed, it should be requested from Technical Services.

L. K. T.

LKT/sek/2084j

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BROWN & WILLIAMSON TOBACCO CORPORATION

RESEARCH & DEVELOPMENT

INTERNAL CORRESPONDENCE

TO: J. L. Ems

CC: L. O. Mosser

FROM: A. McMurtrie

DATE: June 11, 1987

SUBJECT: CAPRI NM SMOKE QUALITY/278

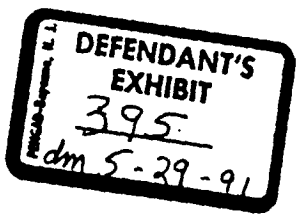
I have assessed the smoke quality of the CAPRI NM samples you submitted to me (codes shown below), and find them both to be normal and acceptable.

Shreveport 10T	5/87 Purchase
New Orleans 10T	5/87 Purchase

A. M.

AM/vr

2324j



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BROWN & WILLIAMSON TOBACCO CORPORATION
Internal Correspondence

TO:	M. A. Bateman	C. B. Pugh
	S. T. Beasley	K. Lyle
	J. L. Brumleve	J. L. Knoop
	F. Canary	A. McMurtrie
	B. D. Dayvault	L. K. Templeton
	J. A. Ferguson	M. DiCio
	B. H. Freedman	R. J. Kopp
	V. Kamerer	A. M. Robinson
	B. Adams	D. L. Scholten
	A. M. Stone	L. E. Gravely
CC:	C. H. Teague	W. L. Sanders
	T. F. Riehl	V. Oates
	G. D. Raphael	S. R. Smith
	L. R. Lewis	C. C. Neff
	C. C. Middleton	D. J. Anderson
	N. E. Steinschulte	M. Kovatch
		B. Miller (O&M)
FROM:	G. Lyttle-Green	DATE: July 15, 1987

SUBJECT: PROJECT CIRRUS TASK FORCE: Minutes of 7/13/87 Meeting

PURPOSE

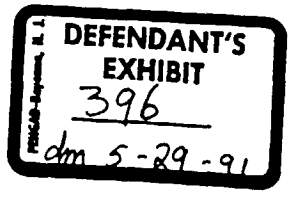
To summarize issues discussed and agreements reached in the subject task force meeting.

ATTENDEES

C. C. Neff	J. L. Brumleve
C. B. Pugh	K. Lyle
B. R. Pellett	M. DiCio
S. R. Smith	B. Adams
D. J. Anderson	B. Miller (O&M)
G. Lyttle-Green	J. Cox (O&M)
N. E. Steinschulte	M. Schaeffer (O&M)
M. Kovatch	C. Cochrane (O&M)

TASK FORCE MEETING SCHEDULE

The next Cirrus Task Force Meeting will be held Tuesday, July 28 at 8:15 a.m. in the BARCLAY Conference Room.



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DISCUSSION

An overview of Project Cirrus was presented by Brand Group summarized as follows:

Overall Objective

Test market ultra thin lights product (NM and M) using the BARCLAY trademark.

Strategy should result in volume and share growth for BARCLAY family.

Strategy

. Maintain and build on positive equities of current BARCLAY brand:

  - Innovative product heritage
  - Name
  - Overall pack look
  - Low tar product
  - Upscale positioning

. Offer consumers smoking satisfaction from less tobacco

  - Ultra thin configuration may reinforce low tar attribute

Target Audience

. 70% female/30% male
. Age 21-45
. Upscale, better educated
. White

Product

. NM LT and M LT
. CAPRI product configuration
. Cork tipping
. Name: BARCLAY LIGHTS Ultra Thins
. Packaging
  - Traditional lights colors
    . White, red, blue, gold for non-menthol
    . White, gold, green for menthol

The test market start date is October 26 in TA 14 - Atlanta. A timetable reflecting the July 13 meeting is attached.

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Action Required	Project Status
	1. Plans Development
GLG/DJA M. DiCio	. Media and promotion plans to be initiated this week. Sales Planning to arrange preliminary meeting with FS Mgrs. in TA #14 and advise Brand Group of first available date to discuss promotion ideas. July 30 was mutually agreed to among Sales and Brand Group; however, M. DiCio to confirm by 7/20.
	2. Packaging
STB	. Finished pack and carton artwork and foil designs ready for Brand Group review by 7/14. Sales Communication requested that the toll free number appear on cartons for consumer convenience.
STB	. Lead times concerning embossing TBD and relayed to Brand Group by 7/16; could possibly be 12-14 weeks.
STB	. Brand Group requested utilization of clear tear tape to be confirmed by Purchasing by end of week.
GLG	. Instructions on case quantities for regular and complimentary product to be provided to Purchasing by end of week.
STB	. Three wrapped NM packs to be provided to Brand Group by end of week for research purpose.
STB	. Two sets of tipping and two non-opened beauty packs per style to be provided to O&M for photography. These materials to be shipped to Brand Group by July 31.
	. Per Law Department instructions, 3rd Quarter warnings to appear on packaging; appropriate Quarter for POP and advertising to be utilized.
GLG/STB	. Purchasing to provide tipping dyes by 8/20 for testing purposes. Brand Group to determine if RD&E can facilitate tipping ink tests.

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Action Required	Project Status
	3. Product/Manufacturing
GLG	. B1G1F quantities to be provided to Sales Communication by end of week for planning purposes.
GLG/BDD	. Delivery date for selling samples to be confirmed. Every attempt to be made to have a limited quantity of samples available for the sales meeting the week of 9/8.
	4. Creative Development
BHF	. Initial creative concepts to be reviewed by Law Department (E. Pepples/R. Sachs) by 7/15.
	. Law Department advised that manufacturer name should not appear on items in "Still Life" concept unless a release is obtained.
	. Nationally known sports figures not to appear in polo executions. Current shots were approved for the Atlanta test market by B. Freedman.
	. Research creative reviewed -- two campaigns (3 executions each) as follows:
	- Still Life executions featuring product surrounded by image consistent items i.e. watch, strand of pearls, etc.
	- Image executions featuring polo spectators and players in upscale, pleasant and inviting environments.

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Action Required	Project Status
	5. Sales
M. DiCio	. Sales meeting moved to 9/8 week due to conflict with CAPRI sales meeting. M. DiCio to confirm a date.
DJA/GLG	. Development of sales brochures and B1G1F cards to be initiated immediately to facilitate FSF. B1G1F cards to be utilized as manufacturing is unable to facilitate factory banding; arrival in Field 2-3 weeks prior to promotion start will give FSF enough preparation time.

G. L-G.

1501GLG/smr
Attachment

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PROJECT CIRRUS TEST MARKET
DETAILED TIMETABLE

Project Objective:

Develop and test market ultra thin, lights menthol and non-menthol products using the BARCLAY trademark.

Activity	Target Date (Week Of)	Responsibility
A. Plans Development		
. Test market recommendation (TA 14 - Atlanta)	Complete	Int'l Brands
. Media/promotion plans initiated	7/13	Int'l Brands/ O&M/Media Svcs.
. Establish overall share objectives	7/13	Int'l Brands
. Media/promotion plans completed	8/17	Int'l Brands
. MMDR/costs finalized	8/31	Int'l Brands
B. Packaging		
. Pack design approved	Complete	Int'l Brands
. Finished packaging artwork	7/13	Int'l Brands/ Purchasing
. Packaging materials delivered (Macon)	9/14	Purchasing
. Start manufacture	9/21	Manufacturing
C. Product/Manufacturing		
. Packaging materials delivered	9/14	Purchasing
. Start manufacture	9/21	Manufacturing
. Selling samples completed	9/28	Manufacturing
. Selling samples delivered	10/5	Transportation
. Start Ship	10/12	Manufacturing/ Transportation

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Activity	Target Date (Week Of)	Responsibility
D. Creative Development		
. Initial creative presented	Complete	O&M
. Creative approved for testing	7/13	O&M
. Field creative research	7/20	Int'l Brands/ MRD
. Research topline results	7/27	MRD
. Shoot ads	8/3	O&M
. Intro ad approval	8/10	O&M
. Intro ad closing	9/7	O&M
. Intro ads appear	10/26	O&M
E. Media/Promotion		
. POP development initiated	7/13	Int'l Brands
. Media/promotion plans initiated	7/13	Int'l Brands
. Media/promotion plans completed	8/17	Int'l Brands/ O&M/Media Svcs.
. POP materials to printer	9/7	Int'l Brands/ Concepts
. Trade media release	10/12	Corp. Comm.
. General media release only in TA 14	10/26	Corp. Comm.
F. Sales		
. Promotion plan completed	8/17	Int'l Brands
. Weekly objectives established	8/31	Int'l Brands/ Forecasting
. Sales meeting/start pre-sell	~~9/6~~ 9/14 (week)	Sales Planning/ Field Sales
. First ship	10/12	Transportation
. POP arrives in field	10/12	Int'l Brands/ Purchasing
. Start retail	10/26	Field Sales

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WIZARD MAIL - DISPLAY OF UNOPENED MAIL OPID STH 05/22/89 12:34:17

FUNCT: F S=SAME F=FORWARD B=BACK #=SPECIFIC PAGE NUMBER ?=HELP

SUBJ: CAPRI 120 FROM DREW MCMURTRIE 05/22/89 11:00:50
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DIST: EKOHNHORST
CC: JWIGAND TRIEHL LREYNOLDS BCHAKRABORTY SHOUPT

MESG: DREW WILL YOU FOLLOW UP ON TWO ITEMS. 1 WHAT ARE OUR OPTIONS AND HOW LONG TO IMPROVE THE BRIGHTNESS OF CAPRI PAPER (PROBABLY BOTH STYLES) 2 IN YOUR OPINION DO WE NEED TO CONSIDER INCREASING THE DENSITY OF OUR PRODUCTS COMPARED TO "TEST COMP" PRODUCT.
*** REROUTED MESSAGE FROM EARL KOHNHORST 05/22/89 110050
EARL,
1) WE ARE CHECKING WITH SUPPLIERS TODAY TO SEE WHAT OPTIONS WE HAVE. TIMING WILL DEPEND ON AVAILABILITY AND THE POSSIBILITY OF A CHANGE IN SMOKING QUALITY. WILL GET BACK TO YOU ASAP ONCE WE HEAR FROM SUPPLIERS (DEFINITELY BY TOMORROW PM REGARDLESS).
2) DO NOT UNDERSTAND THE RATIONALE FOR YOUR QUESTION #2, BUT WE SEE TO INCREASE DENSITY. IN FACT, DOING SO WOULD HURT US ON PRESSURE DROP (EASE OF DRAW), AND POSSIBLY ON SMOKE QUALITY AS WELL.
DREW

PF: 1=N/A 2= PRINT 3=ROUTE 4=PUR 5=MENU 6=STA 7=DIRC 8=HELP PAGE 01 OF 01
SBL Aa

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WIZARD MAIL - DISPLAY OF UNOPENED MAIL OPID TAO 05/23/89 12:03:46

FUNCT: F S=SAME F=FORWARD B=BACK #=SPECIFIC PAGE NUMBER ?=HELP

SUBJ: PM ULTRA SLIMS UPDATE FROM LANCE REYNOLDS 05/23/89 07:43:30
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DIST: EKOHNHORST, JWIGAND, TRIEHL, DMCMURTRIE, JJEWELL, TLEWIS, TOLGES

MESG: W4 IS VERY SIMILAR TO CAPRI, BUT DEFINITELY NOT CAPRI TOBACCO.
Q6 IS APPARENTLY LOW SIDESTREAM AND ULTRA LOW TAR, WE WILL GET SOME SIDESTREAM NUMBERS TODAY. THE OUTER WRAP IS ELECTROSTATICALLY PERFORATED PAPER. WE WILL GET SOME IDEA OF THE ADDITIVES IN IT TODAY. THE INNERWRAP DOES NOT OVERLAP BUT ABUTS AT THE SEAM. TILFORD REMINDED ME THAT WE ONCE INTERCEPTED AN RJR TEST SAMPLE OF SIMILAR CONSTRUCTION ALBEIT AT NORMAL CIRCUMFERENCE.

THUS BOTH PM AND RJR BOTH SEEM TO BE EXPLORING DOUBLE WRAPS FOR LOW SIDESTREAM, ALTHOUGH VANTAGE EXCEL DID NOT USE.

FINALLY IT LOOKS AS IF THERE ARE BLEND DIFFERENCES BETWEEN W4 AND Q6 WITH Q6 BEING MORE FLUE SKEWED.

PF: 1=N/A 2= PRINT 3=ROUTE 4=PUR 5=MENU 6=STA 7=DIRC 8=HELP PAGE 01 OF (

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